

26 AUGUST 1947

I N D E X
of
EXHIBITS

<u>Doc. No.</u>	<u>Def. No.</u>	<u>Pros. No.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
1975	3010		Affidavit of KUSAKA, Ryunosuke		26758
1904	3011		Affidavit of ENOMOTO, Juji		26780
			<u>MORNING RECESS</u>		26787
	3012		Book entitled "Collection of Official Statement Concerning China In- cident	26841	
1462-B	3012-A		Excerpt therefrom - Joint Communique of the Japanese and French Governments on the Japanese Army Station- ing Troops in French- Indo-China		26844
1523	3013		Affidavit of SAWADA, Shigeru		26847
1687	3014		Affidavit of KONDO, Nobutake		26863
1689	3015		Affidavit of ABE, Katsuo		26870
	3016		Volume entitled "Collection of Treaties of Great East Asia"	26876	
2074	3016-A		Excerpt therefrom - Arrangement Concern- ing the Construction and Exploitation of the Yunnan Railway (Signed at Peking 29 October 1903)		

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2080	3017		Affidavit of TERAJ, Kunizo		26880
2016	3018		Affidavit of YAMAMOTO, Chikao		26885

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1 Tuesday, 26 August 1947

2 - - -

3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 - - -

12 Appearances:

13 For the Tribunal, all Members sitting, with
14 the exception of: HONORABLE JUSTICE I. M. ZARAYANOV,
15 Member from the USSR., not sitting from 0930 to 1600.

16 For the Prosecution Section, same as before.

17 For the Defense Section, same as before.

18 - - -

19 (English to Japanese and Japanese
20 to English interpretation was made by the
21 Language Section, IMTPE.)
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1 THE PRESIDENT: Mr. Comyns Carr.

2 MR. COMYNS CARR: May it please the Tribunal,
3 may I make an explanation with regard to the two
4 documents referred to in the evidence of the witness
5 OKADA, which I mentioned the other day as being miss-
6 ing. It appears that the mistake was mine. They were
7 actually in the hands of our Translation Section,
8 which accounts for not being found in the office as
9 I had thought they ought to be.

10 THE PRESIDENT: You do not admit being
11 guilty of a gross error, though.

12 MR. COMYNS CARR: Well, I do desire to apolo-
13 gize to my friends, Dr. KIYOSE and Mr. Logan, for any
14 suggestion that they had not fulfilled their under-
15 taking in the matter.

16 M I N O R U G E N D A, recalled as a witness on be-
17 half of the defense, resumed the stand and testi-
18 fied through Japanese interpreters as follows:

19 THE PRESIDENT: Mr. Tavenner.

20 MR. TAVENNER: If the Tribunal please, this
21 witness was excused yesterday at the close of the ses-
22 sion, but I desire to ask him one or two more questions
23 if I may be permitted.

24 CROSS-EXAMINATION

25 BY MR. TAVENNER (Continued):

1 Q In your affidavit you state that, "If the whole
2 of the task force should be discovered, it should turn
3 back as though nothing had happened, but if such dis-
4 covery is made on X-1 day or later," the attack should
5 be resolutely carried out.

6 Now, what is "X-1 day?"

7 A It means the day before an attack was sched-
8 uled.

9 MR. TAVENNER: That is all

10 THE PRESIDENT: Mr. Roberts.

11 MR. ROBERTS: May the witness be excused?

12 THE PRESIDENT: He is again discharged on
13 the usual terms.

14 (Whereupon, the witness was excused.)

15 MR. ROBERTS: We call as our next witness
16 Ryunosuke KUSAKA.
17
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1 R Y U N O S U K E K U S A K A, called as a witness
2 on behalf of the defense, being first duly
3 sworn, testified through Japanese interpreters
4 as follows:

5 DIRECT EXAMINATION

6 BY MR. ROBERTS:

7 Q Please state your name and address.

8 A My name is KUSAKA Ryunosuke; my address is
9 No. 57 Naka, 2-Chome, Kitabatake, Abenoku, Osaka City.

10 MR. ROBERTS: May the witness be shown defense
11 document No. 1975?

12 (Whereupon, a document was handed
13 to the witness.)

14 Q Please examine this document and tell us
15 whether or not it is your sworn affidavit.

16 A One place in this document I would like to
17 correct. That is the end of (a) of the paragraph
18 numbered 7, it says -- the second paragraph under (a)
19 on page 4 says, on the second sentence, that, "the
20 aircraft carrier AKAGI stayed behind." I would like
21 to correct the name "AKAGI" to "KAGA."

22 There is nothing else to correct apart from
23 that.

24 Q Is the affidavit otherwise true and correct?

25 A Yes.

1 Q And it is your sworn affidavit?

2 A It is undoubtedly mine.

3 MR. ROBERTS: I offer in evidence defense
4 document No. 1975.

5 THE PRESIDENT: Admitted on the usual terms.

6 CLERK OF THE COURT: Defense document 1975
7 will receive exhibit No. 3010.

8 (Whereupon, the document above
9 referred to was marked defense exhibit
10 No. 3010 and received in evidence.)

11 MR. ROBERTS: I read exhibit No. 3010:

12 "1. My name is Ryunosuke KUSAKA. I was
13 formerly a Vice Admiral in the Japanese Navy and par-
14 ticipated in the Pearl Harbor Attack 8 December 1941
15 as Chief of Staff of the First Air Force Fleet.

16 "2. As has been stated the plan of attack
17 was originated by Admiral Isorofu YAMAMOTO, Commander
18 in Chief of the Combined Fleet around January of 1941.
19 I remember it was April or May of that year and after
20 I had been assigned to the post of Chief of Staff of
21 the First Air Force Fleet that I learned of the plan.
22 Generally speaking, the Pearl Harbor Attack was a
23 hazardous and speculative operation penetrating deep
24 into enemy lines. Since it was considered too venture-
25 some, as a first step in military operations which

1 decided the fate of the State, various studies were
2 repeatedly made. However, since I could not agree
3 with Commander in Chief YAMAMOTO's idea as I did not
4 consider the plan to be practical, I expressed a
5 lengthy opposition opinion directly to the Commander
6 in Chief himself.

7 "Commander in Chief YAMAMOTO listened care-
8 fully to my opinion and then said as follows:

9 "I fully understand your opinion; however
10 if war should break out with the United States, taking
11 into view the condition of military strength as it
12 stands today, I have no confidence in fulfilling the
13 responsibility of our national defense other than by
14 attacking the United States Fleet immediately after
15 the outbreak of war. Therefore, as long as the
16 United States Fleet is stationed at Hawaii, it is my
17 conviction as Supreme Commander, that we must commence
18 operations by an attack there. I ask you, then, to
19 stop opposing me from now on and concentrate your
20 efforts toward securing the success of this attack.'

21 "3. The Naval General Staff in early October
22 1941, in spite of its previous opposition to the plan,
23 gave way before the firm opinion of Commander in Chief
24 YAMAMOTO and finally consented to study the Hawaii
25 Operation so that preparations could be made for any

1 emergency situation that might arise. Subsequently,
2 joint studies were made between the Naval General
3 Staff Operations Section, staff officers of the Com-
4 bined Fleet and the First Air Force Fleet. As studies
5 of the operation advanced, the atmosphere gradually
6 changed to the point of view of adopting the Hawaii
7 Attack Plan as the first priority plan. This was
8 largely due to the fact that the Combined Fleet Head-
9 quarters was so strongly convinced of its possibilities
10 as compared with the disadvantage of having to plan a
11 counter attack strategy against the enemy for the
12 purpose of protecting the undefended South Sea Islands.

13 "4. At that time there was only one carrier
14 based air force fleet which was the First Air Force
15 Fleet consisting of the following three air force
16 squadrons:

17 "First Air Force Squadron with aircraft
18 carriers AKAGI and KAGA.

19 "Second Air Force Squadron with aircraft
20 carriers SORYU and HIRYU.

21 "Fourth Air Force Squadron with aircraft
22 carriers RYUJO and the converted carrier 'KASUGA MARU,'
23 named the 'TAIYO.'

24 At that time there were also the light air-
25 craft carriers 'HOSHIO' and 'ZUIHO' which formed the

1 Third Air Force Squadron of the First Fleet.

2 "On September 25th, 1941, the aircraft carrier
3 'ZUIKAKU' was commissioned and, together with the air-
4 craft carrier 'SHOKAKU,' which had been completed one
5 month before, composed the Fifth Air Force Squadron.
6 These were assigned for service under the First Air
7 Force Fleet.

8 "5. Of the four air force squadrons attached
9 to the First Air Force Fleet, both carriers of the
10 Fourth Air Force Squadron were capable only of carry-
11 ing a small number of planes and those planes were out-
12 moded craft. They were slow with a short cruising
13 range and entirely unfit for the Hawaii Operation.
14 Therefore, the Combined Fleet Headquarters submitted
15 the following demands to the central authorities.

16 "(a) Select highly trained air crew members
17 from both carriers of the Fourth Air Force Squadron
18 to fill vacancies in the First and Second Air Force
19 Squadrons, thereby increasing the number of carrier
20 planes on both air force squadrons and particularly
21 the number of fighter planes.

22 "(b) Fill the vacancies in the Fifth Air
23 Force Squadron with trained personnel, experienced in
24 service on carriers, from land air force units.

25 "Concerning the two above items, there was no

1 other way to supply men for item (b) other than to
2 pull out training officers and enlisted men instruc-
3 tors from the training corps. The Personnel Bureau
4 Naval Aviation Board showed great reluctance to do
5 this because it would inconvenience the training and
6 supplying of future air crew personnel. The demands
7 of the Combined Fleet, however, were strong enough to
8 enforce its wishes and it was finally done.

9 "6. The Pearl Harbor Attack was thus con-
10 ducted by a temporarily organized task force consist-
11 ing of the First Air Force Fleet as its main body. It
12 was mid October 1941 when the shifting of necessary
13 personnel and the formation of the First Air Force
14 Fleet was completed. Because the Pearl Harbor Attack
15 was not thought possible unless rigid training be en-
16 forced, it was necessary to carry out practice sched-
17 ules until late November. But as the embarkation date
18 was around the middle of November, it left port without
19 even a month's training.

20 "As a result of studies made on the Pearl
21 Harbor Attack Operation, daylight, or if possible,
22 before daybreak, as the time of attack was desirable.
23 But due to such circumstances as the insufficient
24 training of air crew personnel, the accompanying lack
25 of confidence in taking off from the carriers and flying

1 in formation, together with navigating before day-
2 break, were problems which caused a change in the
3 schedule of the attack so that it was finally arranged
4 for the planes to leave the carriers thirty minutes
5 before daybreak and to fix the hour of attack at one
6 hour and a half after daybreak.

1 "The Pearl Harbor Attack was an extremely
2 difficult operation and its major difficulties were
3 the following two points:

4 "(a) The problem of a shallow submersion
5 torpedo.

6 "Previous studies had been made to lessen the
7 submersion degree of torpedoes after firing and to
8 shorten the distance required to stabilize itself at
9 an adjusted depth. These studies were made before the
10 Pearl Harbor Operation was conceived and were designed
11 for the purpose of aerial torpedo attacks on shipping.
12 The results were far from satisfactory. When studies
13 on the Pearl Harbor Attack began, research work in this
14 field became more important for it was an unanswered
15 question as to whether aerial torpedo attacks were
16 possible in the restricted and shallow waters of Pearl
17 Harbor. The First Air Force Fleet, with the cooperation
18 of the Yokosuka Naval Air Corps and Naval Air Technical
19 Department made repeated experiments and finally, in
20 late October, reached the conclusion that it was possible.

21 "The remodeling of torpedoes necessary for
22 such operation was delayed and they could not be delivered
23 to the ships before embarking for their rendezvous
24 point at Takan Bay. So the aircraft carrier Kaga
25 stayed behind until the last to receive the remodeled

1 torpedoes and then to distribute them to each ship
2 at Takan Bay. There was also the question of torpedo
3 net cutters which were thought to be necessary for the
4 operation but, although the research work was hurried,
5 the studies and experiments did not produce satisfactory
6 results and it was decided not to equip the torpedoes
7 with cutters.

8 "(b) The second difficulty was the problem
9 of extending the cruising range of the ships partic-
10 ipating in the attack. The attack force took a northerly
11 course where navigating ships were scarce in order to
12 avoid early discovery and planned to approach Hawaii
13 from the north where we thought air patrols would be
14 sporadic.

15 "It was the northeastern monsoon period and
16 we knew that the aircraft carriers Akagi, Soryu and
17 Hiryu, as well as the destroyers, would not have
18 sufficient cruising range if refueling en route was
19 impossible due to the strong winds and high waves. As
20 for refueling destroyers on the high seas, we had had
21 considerable training and experience and in the event
22 refueling was impossible, these ships could turn back
23 and the operation be carried on by cruisers and heavier
24 type ships.

25 "The problem was different in regard to aircraft

1 carriers. If three out of six participating were
2 omitted, the operation could not be performed. Con-
3 sequently, after many studies were made, it was decided
4 to carry fuel even in the double bottomed sections and
5 stacking fuel drums outside the storage rooms. Then,
6 in case refueling was impossible, these ships would be
7 able to return to a point at 160° east longitude.

8 "However, loading fuel into the double bottomed
9 sections of the aircraft carrier Akagi and also the
10 reserve fuel tanks was prohibited by naval regulations
11 considering the strength of the ship's structure. I
12 therefore entered into negotiations with proper officials,
13 attempting to neutralize this naval regulation, but
14 achieved no success. Whereupon the Commander in Chief
15 of the Fleet was forced to take full responsibility
16 regarding the possibility of an accident occurring and
17 the decision was made to load fuel in the reserve fuel
18 tanks and double bottom sections, although not in com-
19 pliance with regulations.

20
21 "The Task Force which was temporarily organized
22 for the Pearl Harbor Attack was to embark from their
23 port either alone or in small groups around 15 November
24 1941 in accordance with Combined Fleet Headquarters
25 orders, and rendezvous at Takan Bay by 22 November.
After refueling, the Task Force left the bay at 0600

1 hours 27 November to the next stand-by point at 42°
2 north latitude, 170° west longitude.

3 "During this operation, there were two im-
4 portant problems which caused me great concern in my
5 capacity of Chief of Staff of the Task Force.

6 "One was whether or not the main body of the
7 United States Fleet would be stationed in the Hawaiian
8 area at the time the attack was to be made. The other
9 was the fear of enforcing the attack when orders to
10 return might have been transmitted (if United States -
11 Japanese negotiations reached an amicable settlement)
12 but which might not be received owing to the remote
13 distance of communications or other causes. It would
14 indeed have been a grave problem had orders been dis-
15 patched to return and were not received by the Task
16 Force.

17 "Behind the reason for my concern on the
18 latter point was the fact that on 2 December, Imperial
19 Headquarters Naval Section orders stated that diplomatic
20 negotiations would be continued even after a decision
21 was passed designating 8 December as the day to open
22 hostilities, and a ray of hope that hostilities could
23 be avoided was still seen. If United States-Japanese
24 negotiations reached an amicable settlement, or a
25 possibility of reaching a peaceful solution became a

1 certainty, all forces were to stop all operational
2 actions and, after hurriedly rounding up all units,
3 were to return home. This was so indicated in Imperial
4 Headquarters Naval Department Instruction Number 5 and
5 concurrently in Combined Fleet Headquarters Instruction
6 Number 1. (In the instruction the words 'In the event
7 of important change in situation' meant the amicable
8 settlement of United States-Japanese negotiations.)
9 Moreover, we had heard of this matter from Commander
10 in Chief Admiral YAMAMOTO at every opportunity. There-
11 fore, I was greatly concerned until on the 5th or 6th
12 of December I received a telegram from Chief of Division
13 One, Naval General Staff, stating that there was no hope
14 of United States-Japanese negotiations coming to a
15 peaceful conclusion.

16 "As for the ultimatum to be delivered prior
17 to the attack, I thought it was naturally being taken
18 care of by the central authorities. Therefore, I was
19 convinced that a notification had been communicated
20 before the attack began.

21 "From a strategical viewpoint, an attack without
22 notice might be idealistic, but such treacherous action
23 was unthinkable from the point of view of training and
24 common sense of the Japanese naval officer, and also
25 because of the traditional 'Bushido' (the creed of the

1 Samurai).

2 "As a matter of fact, I expected the possible
3 discovery of our operation before the attack by United
4 States patrol planes in Hawaii. Our observation sea
5 planes were scheduled to arrive at Pearl Harbor at
6 least thirty minutes ahead of the attacking forces,
7 and moreover, we were expecting our attacking forces
8 to be caught by radar, thus revealing to the United
9 States our potential attack. We actually were prepared
10 to suffer considerable damage and casualties in this
11 risky undertaking and were greatly surprised when such
12 did not occur."

13 You may cross-examine.

14 MR. TAVENNER: If the Tribunal please, there
15 will be no cross-examination.

16 MR. ROBERTS: May the witness be excused on
17 the usual terms?

18 THE PRESIDENT: He is excused accordingly.

19 (Whereupon, the witness was excused.)
20

21 - - -

22 MR. ROBERTS: We refer briefly to prosecution
23 exhibit 809, which is a research report introduced
24 concerning the Pearl Harbor Operation for the purpose
25 of reading one sentence on page 76 thereof.

From Chief of Naval General Staff NAGANO,

1 Samurai).

2 "As a matter of fact, I expected the possible
3 discovery of our operation before the attack by United
4 States patrol planes in Hawaii. Our observation sea
5 planes were scheduled to arrive at Pearl Harbor at
6 least thirty minutes ahead of the attacking forces,
7 and moreover, we were expecting our attacking forces
8 to be caught by radar, thus revealing to the United
9 States our potential attack. We actually were prepared
10 to suffer considerable damage and casualties in this
11 risky undertaking and were greatly surprised when such
12 did not occur."

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15 will be no cross-examination.

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17 the usual terms?

18 THE PRESIDENT: He is excused accordingly.

19 (Whereupon, the witness was excused.)

20 - - -

21 MR. ROBERTS: We refer briefly to prosecution
22 exhibit 809, which is a research report introduced
23 concerning the Pearl Harbor Operation for the purpose
24 of reading one sentence on page 76 thereof.

25 From Chief of Naval General Staff NAGANO,

1 Osami to Commander in Chief Combined Fleet YAMAMOTO,
2 dated 21 November 1941.

3 The sentence reads as follows:

4 "In the event that an agreement is reached
5 in the negotiations between the United States and Japan,
6 the Commander in Chief, Combined Fleet will immediately
7 order the forces for the operation to return."

8 We offer in evidence defense document 2100,
9 being the gist of a Naval General Staff Directive and is
10 an excerpt from materials submitted to Colonel Munson
11 of SCAP relative to the order of the Japanese Task Force
12 to return.

13 THE PRESIDENT: Mr. Tavenner.

14 MR. TAVENNER: If the Tribunal please, this is
15 the same evidence as introduced by the prosecution,
16 exhibit 809, page 9,010 of the transcript, but which
17 was not read in evidence. The document presented is
18 a slightly different translation from that which appears
19 in the original, and objection therefore is made to
20 the introduction of a new document.

21 THE PRESIDENT: Are you satisfied to read
22 from exhibit 809, Mr. Roberts?

23 MR. ROBERTS: I am just comparing that, if
24 your Honor please. I assume it will be substantially
25 the same and I will have no objection to reading from

1 exhibit 809. It is substantially the same, and I would
2 be satisfied just to refer the Court to that for guid-
3 ance.

4 We offer in evidence defense document 2101,
5 which is a reconstructed version of a verbal order
6 submitted from the Chief of Naval General Staff on
7 December 2, relative to the same matter.

8 THE PRESIDENT: Mr. Tavenner.

9 MR. TAVENNER: If the Tribunal please, the
10 same situation exists with regard to this document. It
11 is a different translation of a document previously
12 introduced by the prosecution, exhibit 809 and will be
13 found at page 77 of that exhibit.

14 THE PRESIDENT: This is repetitive and becoming
15 cumulative.

16 MR. TAVENNER: Objection is therefore made
17 to the introduction of this document.

18 MR. ROBERTS: This document has been introduced
19 to support the affidavit just read of Admiral KUSAKA.

20 THE PRESIDENT: It is common ground now. If
21 such instructions were given we do not want to hear it
22 more than once.

23 MR. ROBERTS: I would be satisfied to read
24 the sentence contained in the exhibit. I see that it
25 is substantially the same.

1 THE PRESIDENT: Why read it when it isn't
2 contested?

3 given on several occasions. This is a date
4 which is subsequent to the date of the order which
5 originally was November 21, 1941.

6 THE PRESIDENT: A colleague assures me it is
7 the same date, but whatever the position, the instruc-
8 tion was never cancelled.

9 MR. ROBERTS: That is right, unquestionably
10 not. However, we wanted to emphasize that it had been
11 repeated more than once, and as your Honor stated, was
12 never cancelled; and in view of the difference in date,
13 I would like to read this one sentence into the record.

14 THE PRESIDENT: Why do you persist like that?
15 It is almost customary.

16 MR. ROBERTS: Well, perhaps it would be suf-
17 ficient to state that this additional order is dated
18 the 2nd of December, 1941, and is similar to the
19 previous orders mentioned.

20 We offer in evidence defense document No.
21 1942, which was offered the other day, but because of
22 the fact that the original had not been filed, was
23 rejected.

24 THE PRESIDENT: Mr. Tamm.

25 MR. TAMM: If the Tribunal please, Rule
6(b) 3 has still not been complied with. The filing

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1 MR. ROBERTS: To show that the same instruc-
2 tions were given on several occasions. This is a date
3 which is subsequent to the date of the order which
4 originally was November 21.

5 THE PRESIDENT: A colleague assures me it is
6 the same date, but whatever the position, the instruc-
7 tion was never cancelled.

8 MR. ROBERTS: That is right, unquestionably
9 not. However, we wanted to emphasize that it had been
10 repeated more than once, and as your Honor stated, was
11 never cancelled; and in view of the difference in date,
12 I would like to read this one sentence into the record.

13 THE PRESIDENT: Why do you persist like that?
14 It is almost obstinacy.

15 MR. ROBERTS: Well, perhaps it would be suf-
16 ficient to state that this additional order is dated
17 the 2nd of December, 1941, and is similar to the
18 previous orders mentioned.

19 We offer in evidence defense document No.
20 1942, which was offered the other day, but because of
21 the fact that the original had not been filed, was
22 rejected.

23 THE PRESIDENT: Mr. Tavenner.

24 MR. TAVENNER: If the Tribunal please, Rule
25 6(b) 1 has still not been complied with. The filing

1 of the original with the Clerk one day in advance
2 is not compliance with the rule. The original docu-
3 ment, in Japanese, is a rather large book, and we
4 will waive the period required by the rule if we have
5 an opportunity to have it scanned. We desire now the
6 privilege of withdrawing it from the Clerk for scan-
7 ning purposes.

8 THE PRESIDENT: The rule must be complied
9 with.

10 MR. ROBERTS: If the Court please, we are
11 referring to one sentence in the Directive No. 61.
12 That is the only one we are going to refer to in this
13 document. The document in question was served some
14 days ago, and that by some inadvertence the original
15 was not deposited until the day before yesterday is
16 correct. But certainly the scanning of one sentence
17 should not delay us unreasonably and we would like to
18 finish this type of proof and not have to return to it
19 again.

20 MR. TAVENNER: Counsel misses the whole point
21 of the rule, if the Tribunal please.

22 THE PRESIDENT: The rule must be complied with.
23 The discussion is closed.

24 MR. ROBERTS: We will ask permission to with-
25 draw the document until they have had a chance to scan

1 it.

2 THE PRESIDENT: Mr. Brannon.

3 MR. BRANNON: Defense document 1904, which
4 was the testimony of Mr. ENOMOTO relative to the Wash-
5 ington and London Disarmament Conferences, was rejec-
6 ted last week by the Tribunal. Over the period of the
7 week-end and because the Tribunal indicated that the
8 length of the document was particularly objectionable,
9 we have deleted much of the testimony therein contained.
10 The effect of this editing is to reduce the affidavit
11 from one-half to two-thirds. While we are extremely
12 reluctant to present the evidence in this form rather
13 than according to original plans, nevertheless it be-
14 comes necessary for us to again move the Tribunal for
15 admission of the document in its revised condition.
16 This is so because the defense has prepared no other
17 evidence to meet the issue raised by the prosecution
18 relative to Japan's actions in withdrawing from the
19 1935 Armament Conferences. Therefore, as matters now
20 stand, we would be guilty of submitting no proof and
21 leaving an issue dangling in the air.

22 We would like to point out to the Tribunal
23 that the witness himself is one of the few men now
24 alive who attended all of the various conferences as
25 a naval expert and that the matters stated in his affi-

1 davit come from personal experience rather than from
2 the process of hearsay. Thus we feel that the three-
3 hour testimony which would have been given was a com-
4 pact method of procedure designed to save the Tribunal
5 valuable time and yet to fully express the defense
6 contentions. To have adopted another means of proof
7 may have exhausted three-fold that amount of time.
8 Hence in its present modified and reduced form we feel
9 there can be no serious objection raised.

10 In addition, it should be noted that the Jap-
11 anese action taken at the 1935 London Conference was
12 predicated upon past events and so closely correlated
13 thereto that the naked issue of the withdrawal itself
14 could not have been fully explained without reference
15 to foregoing matters.

16 Now, if the Tribunal please, we have marked
17 copies for each Member of the Court, the clerk, the
18 interpreter, the prosecution, and both the American
19 and Japanese court reporters.

20 THE PRESIDENT: Do you think now you will
21 finish in about an hour and a half, is that so?

22 MR. BRANNON: I believe there are about thirty-
23 eight pages in the affidavit. Reading time of two
24 minutes a page will give you an approximate guess as
25 to the time.

1 THE PRESIDENT: Are you going to read exten-
2 sively from the annexures?

3 MR. BRANNON: We never at any time intended
4 to read any of the annexed documents. That was placed
5 there for the benefit of the prosecution and the Tri-
6 bunal. We therefore request of the Tribunal that Mr.
7 Roberts be allowed to proceed with his examination of
8 the witness ENOMOTO.

9 THE PRESIDENT: Mr. Comyns Carr.

10 MR. COMYNS CARR: May it please the Tribunal,
11 although the evidence is much shorter than it was, it
12 is, in our submission, still much too long, and in
13 particular, the fact that the witness attended all the
14 conferences from 1921 onwards has caused him to intro-
15 duce a great deal of matter with regard to those con-
16 ferences which, in our submission, is entirely irrele-
17 vant. Two of those conferences resulted in treaties,
18 which are in evidence, and in our submission, it is
19 irrelevant to show the discussions which took place
20 prior to the signature of those treaties or the rea-
21 sons why it is now alleged that Japan signed them with
22 reluctance. When the affidavit comes to the actual
23 negotiations of 1934, 1935, and 1936, the affidavit
24 still treats them with excessive detail, particularly
25 with a view to showing that other countries besides

1 Japan were not altogether agreed as to the form
2 which a revised treaty should take, which is, in our
3 submission, an irrelevant question. In our submission,
4 the only part of the affidavit and its annexes which
5 can be of any assistance to the Tribunal are a few of
6 the annexes which show what actually was said by the
7 Japanese delegates in the conference.

8 THE PRESIDENT: What they said appears in the
9 annexures and they are not going to be read.

10 MR. COMYNS CARR: No.

11 THE PRESIDENT: And what they said is the thing
12 that matters, not what the witness thinks they said.

13 MR. COMYNS CARR: And more particularly, not
14 why the witness thinks they said it. In our submission,
15 the proper way of dealing with this matter is to put
16 in such of those annexures that show what the Japanese
17 delegates said, and dispense with the witness.

18 THE PRESIDENT: Mr. Brannon.

19 MR. BRANNON: This particular witness himself
20 drafted some of these annexes. Many of them being part
21 of international documents, the Court might even take
22 judicial notice of them. But what caused the Japanese
23 Government to do what it did is more important, since
24 the prosecution has chosen to use this as a cog in the
25 conspiracy charge.

1 As indicated yesterday, I personally would
2 think the prosecution would welcome this chance to
3 cross-examine a witness of this man's reputation and
4 knowledge.

5 THE PRESIDENT: Mr. Brannon, it is suggested
6 that the only possible reason for presenting this affi-
7 davit is the assumption that the Japanese delegates
8 at the conferences did not fully or accurately pre-
9 sent Japan's case.

10 MR. BRANNON: Well, I suggest that the de-
11 fense views the matter from this light: whether or
12 not the Japanese withdrawal was prompted by honest
13 motives or whether, as the prosecution suggested yes-
14 terday in the cross-examination of a witness, it was
15 an evil motive. As the matter now stands, Japan is
16 accused of arbitrary action, the innuendo being that
17 it deliberately abrogated the armament treaty for the
18 purpose of re-arming. Surely we must be allowed to
19 answer this prosecution charge, especially when we
20 have a man who is quite able to tell exactly where
21 the idea started and how Japan developed and presented
22 it.
23

24 THE PRESIDENT: You want to show that Japan's
25 motives in withdrawing were not aggressive?

 MR. BRANNON: That is right.

1 THE PRESIDENT: Would you be satisfied if we
2 allwed only the parts of the affidavit which deal
3 with the 1934-1935 conference, commencing at page 24?

4 MR. BRANNON: We would naturally not be satis-
5 fied, but we must of course bow to the dictate of the
6 Tribunal.

7 The picture might be this: that Japan will-
8 ingly agreed to the 1921 limitation, to the 1930 limi-
9 tation, and then suddenly, in 1934, commenced an en-
10 tirely new procedure and withdrew from the conference.
11 If we can show dissatisfaction all along, with a sudden
12 decision -- not a sudden decision but an ultimate deci-
13 sion being made in 1934-1935, we feel that we have
14 set forth before the Tribunal the real state of affairs.

15 I have no more to say.

16 THE PRESIDENT: By a majority the Court sus-
17 tains the objection except as regards the pages from
18 24 onward, including the 1934-1935 conferences. To
19 that extent the document is admitted on the usual terms,
20 the document as edited.

21 CLERK OF THE COURT: Defense document 1904 will
22 receive exhibit No. 3,011.

23 (Whereupon, the document above referred
24 to was marked defense exhibit 3,011 and received
25 in evidence.)

1 MR. ROBERTS: May we have the witness re-
2 called, if your Honor please?
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1 J U J I E N O M O T O, recalled as a witness on
2 behalf of the defense, having been previously
3 sworn, testified through Japanese interpreters
4 as follows:

5 MR. ROBERTS: The witness has previously exam-
6 ined the document and I believe we have covered the
7 preliminary steps. I read Exhibit 3011, beginning at
8 page 24:

9 "Overtures for preliminary negotiations by
10 way of preparation for the naval disarmament confer-
11 ence scheduled for 1935 were received from Sir John
12 Simon, British Secretary of Foreign Affairs, on
13 17 May, 1934. The Japanese Government accepted forth-
14 with and designated Mr. MATSUDAIRA, Ambassador to Great
15 Britain, as delegate. Negotiations were started by
16 the representatives of U.S.A., Great Britain and Japan
17 on 18 June; but as the talks, instead of being confined
18 to the question of procedure for the conference to be
19 held the following year, began to get involved deeply
20 in the substance of naval limitation, they were discon-
21 tinued for a time on 12 July, with the understanding
22 that they should be reopened on 23 October. On 7 Sept-
23 ember the Japanese Government designated Rear-Admiral
24 Isoroku YAMAMOTO (promoted to Vice-Admiral while in
25 London) as an additional delegate to the Preliminary

1 Negotiation. He left Tokyo via U.S.A. on 20 September
2 and arrived in London early in October.

3 "Upon the appointment of Rear-Admiral YAMAMOTO
4 as delegate, instructions bearing on the substance of
5 the disarmament question were issued (Annex Document
6 No. 14) to him and Mr. MATSUDAIRA as an addition to
7 the instructions which had already been sent to the latter.

8 "It was early in October that Rear-Admiral
9 YAMAMOTO, the additional delegate, reached London.
10 Prior thereto, upon receipt of the British Government's
11 proposal for the Preliminary Negotiation, on 17 May, Japan
12 completed the various steps necessary and on 30 May in-
13 formed Britain of its acceptance of the proposal and of
14 the nomination of Ambassador MATSUDAIRA as its delegate.
15 Talks with the British were commenced on 18 June, and
16 with the Americans on 19 June. Meanwhile, Mr. Norman
17 Davis had been named America's delegate and departed
18 for London on 9 June. Consequently the statement that
19 'while Great Britain and U.S.A. commenced their talks
20 around June or July, the Japanese delegate did not
21 reach London till October' is at great variance with
22 the facts.

23 "On 29 June the Japanese Government wired in-
24 structions to Mr. MATSUDAIRA to the effect that there
25 would be no objection to his discussing questions of

1 substance also, but as a matter of fact, not much
2 progress was made in that direction.

3 "Agreement was reached between U.S.A., Great
4 Britain and Japan to suspend the Preliminary Negotiat-
5 ions for a time in July; and announcements of identical
6 substance were made public simultaneously in the capitols
7 of the three countries.

8 "The Preliminary Negotiations were re-opened
9 on 23 October, and discussions principally on questions
10 of substance were carried on by the delegates of U.S.A.,
11 Great Britain and Japan.

12 "Although considerable differences of opinion
13 developed between the three Powers in the course of the
14 Preliminary Negotiations, most cordial atmosphere pre-
15 vailed throughout all the discussions.

16 "The second phase of the Anglo-Japanese nego-
17 tiations was opened informally before Rear-Admiral YAM-
18 AMOTO and the American delegates reached London. It
19 started on 8 October when the Foreign Secretary, Sir
20 John Simon, summoned Mr. MATSUDAIRA and engaged in con-
21 versations, in which the latter offered an explanation
22 of the general outline of Japan's contentions. The
23 official negotiations, however, did not begin until
24 23 October, after the arrival of the American delegates
25 in London.

1 "Pertaining to the disarmament formula pro-
2 posed by Japan.

3 "At the first Anglo-Japanese meeting of 23 Oct-
4 ober, i.e., the first following resumption of the nego-
5 tiations, delegates MATSUDAIRA and YAMAMOTO explained
6 Japan's fundamental demand on the basis of their in-
7 structions. On that occasion and at subsequent meet-
8 ings they offered the following exchanges of opinions
9 to the British:

10 " (1) Since security of a nation's defense is
11 affected also by such factors as natural resources,
12 industrial power, etc., it is hardly proper to determ-
13 ine the quantity of arms solely on the basis of vulner-
14 ability. Since it is Japan's policy to deprive arma-
15 ments as a whole of their offensive character by
16 abolishing or reducing the more offensive weapons, the
17 vulnerability of the various Powers should be exting-
18 uished or greatly reduced as a matter of course. What
19 Japan has in mind is to take the minimum strength of
20 countries with high vulnerability as the maximum limit,
21 and to have countries with low vulnerability stay below
22 that limit. Although there is no treaty outside of the
23 five great naval Powers, there has never been an instance
24 of any single Power through building an excessively
25 large navy, having given rise to naval competition.

1 "(2). While some difference in conditions be-
2 tween Great Britain and Japan is to be recognized, is
3 it not true that there is parity between Britain and
4 U.S.A. notwithstanding great discrepancy in vulnerability?
5 There does not appear to be any difference between U.S.A.
6 and Japan as considered from the standpoint of Britain's
7 relations with them.

8 "As between U.S.A. and Japan, Japan's defense
9 is far more vulnerable; hence Japan could not possibly
10 constitute a menace to U.S.A. even if the two were to
11 have the same naval ratio.

12 "(3). If, by radically limiting offensive
13 weapons, the offensive character of naval armaments
14 is reduced to an extreme degree, there will then be
15 less need of attaching importance to the relative
16 character of naval armaments; and the establishment
17 of a common upper limit should give no cause for un-
18 easiness.

19 "(4). The strength to be possessed by Powers
20 which do not build up the maximum limit shall be deter-
21 mined by each of them on the basis of their respective
22 minimum requirements.

23 "(5). While Japan wishes to feel secure,
24 it does attach importance to the question of her people's
25 prestige; hence she desires to consider all issues free

1 from the hypothesis of the Washington Treaty ratio.

2 "(6). Believing aircraft carriers, capital
3 ships and A-class cruisers to be offensive in that
4 order, and B-class cruisers, destroyers and submarines
5 to be defensive, Japan advocates the abolition or
6 radical reduction of the former group; and if retain-
7 ed they should be limited by category; and the latter
8 group, i.e., B-class cruisers and lesser types, should
9 be limited globally; and the common upper limit should
10 be fixed for their aggregate.

11 "Japan desires abolition of aircraft carriers.
12 Abolition of capital ships may not be possible at once,
13 since they are not confined to the five leading naval
14 Powers; but they should be reduced as much as possible;
15 and the same as regards A-class cruisers."

16 THE PRESIDENT: We will recess for fifteen
17 minutes.
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19 (Whereupon, at 1045 a recess was
20 taken until 1100, after which the proceed-
21 ings were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Roberts.

4 MR. ROBERTS: I continue on page 36:

5 "(Pertaining to quantity of arms).

6 "Japan's contention was predicated upon the
7 removal of offensive character from the naval arma-
8 ments of the various Powers and was aimed principally
9 to free the lesser naval Powers from any feeling of
10 insecurity. The figures demanded for herself were
11 therefore very low -- being far lower than those
12 demanded by Britain which tended to be higher than
13 those allowed under existing treaties. Britain's
14 demand gave the impression, moreover, that it was
15 strictly tinged with the idea of an absolutely
16 required quantity in naval armaments.

17 "B. Second phase of the Japanese-American
18 negotiations commenced on 24 October.

19 "(Pertaining to the disarmament formula
20 proposed by Japan)."

21 THE PRESIDENT: Page 38 has something on it:
22 "A memorandum (Annex Document No. 14-2) pertaining to
23 Britain's minimum defensive requirements was sent by
24 the British Government to the Japanese delegation on
25 16 January 1935."

1 Now go on; read what you were reading, page
2 39.

3 MR. ROBERTS: The top of page 40 now:

4 "The first meeting with the American delegation
5 took place on 24 October, that is one day after the
6 first Anglo-Japanese meeting. Delegates MATSUDAIRA
7 and YAMAMOTO explained Japan's basic principle, the
8 same as they had done to the British delegation.

9 Among the Japanese opinions that were advanced on that
10 subject at that meeting and those following which
11 differed somewhat from the opinions that were expressed
12 in the meetings with the British were the following:

13 "(1) The demand for equality means that the
14 Powers will enter into agreement on a basis of equality,
15 and not that they will actually build up to the maximum
16 limit; it is rather the intention that the Powers
17 shall build up their navies in accordance with the
18 respective national strength. Discriminating rations
19 are bad from the standpoint of national prestige.

20 "(2) Criticism of the submarine solely on
21 the ground of its being destructive to commerce is
22 not warranted, for the same can be said of other
23 categories of ships. The London Treaty, moreover,
24 contains provisions rigidly restricting the use of
25 submarines."--

1 THE PRESIDENT: That should be "discriminating
2 ratios," I suppose.

3 MR. ROBERTS: Yes, that should be "ratio;"
4 that is right.

5 "(3) Japan had thought that the 1922
6 Washington Treaty for the Limitation of Naval Arma-
7 ments gave her tactical equality in her own neighbor-
8 ing waters. But the subsequent increase in the
9 mobility of warships has reduced distances on oceans,
10 with resulting advantage to the attacker.

11 "(4) If France and Italy demand equal rights
12 under the formula of the common upper limit, there is
13 no reason for refusing them; but the relations between
14 the two could be settled by an agreement between them-
15 selves.

16 "(5) The question of qualitative limitation
17 is inseparable from Japan's fundamental policy. The
18 basis of that policy is to make wars impossible. If
19 the fundamental policy cannot be determined, there
20 would be no sense in discussing details.

21 "(6) While we feel the same as regards
22 cooperation of the three Powers on the China question,
23 it is essential that that cooperation be on the basis
24 of equality of position.
25

"It cannot be said that the idea of ratio

1 might not have undesirable emotional effect upon
2 Japanese-American relations.

3 "(7) While the argument has been advanced
4 that equality of naval strength does not give equality
5 of security, it can at least be said that the existing
6 treaties have not taken the question of security very
7 deeply into consideration. If America's 5 does not
8 constitute a threat to Japan's 3, there is no reason
9 for saying that Japan's 5 will constitute a threat to
10 America's 5.

11 "With regard to shipbuilding, whatever might
12 be said of Britain, at least America enjoys a big
13 advantage in natural resources and building capacity.

14 "(Pertaining to quantity of arms).

15 "The American delegation stated that it was
16 their intention to carry out a 20% reduction within
17 the scope of the Washington and London Treaties, but
18 indicated no concrete plan as to how it should be done.

19 "C. At the Anglo-Japanese Meeting on
20 7 November, the British delegate produced a tentative
21 plan. Under this plan 'All the Powers are to declare
22 their naval strengths voluntarily and unilaterally, and
23 when all these declarations were collected, a table
24 would be made of the naval strength of the principal
25 Powers. This table would give some idea of the

1 substance of the quantities which the Powers
2 concerned desired to possess; and through discussion
3 of that substance, effort would be made to maintain
4 the proportion of naval strengths for a few years to
5 come.'

6 "The purport of this plan for declaring
7 building programs was to maintain the relative
8 strengths fixed by existing treaties. Achievement of
9 a thorough-going disarmament was no part of its aim.
10 It therefore appeared to the Japanese delegation as a
11 temporizing scheme which could not possibly be
12 reconciled with Japan's fundamental proposal. Believ-
13 ing, however, that the demands of the various Powers
14 could not be harmonized by sticking to its own plan
15 alone, the Japanese delegation studied the above plan
16 with the British and, at the Anglo-Japanese meeting
17 on 27 November, proposed an amendment to the following
18 effect: 'Under the British plan, the various Powers
19 can change their building programs whenever necessity
20 arises. But such a scheme is likely rather to lead
21 to a race in naval construction. A common upper
22 limit should therefore be set to the British plan, so
23 that this limit will be reached gradually, and not at
24 once.' Then on 30 November Vice-Admiral YAMAMOTO
25 engaged in free talking with Admiral Chatfield; and

1 on 10 December the Japanese delegation made a
2 report to the Government on the negotiations on the
3 British plan and at the same time asked for its
4 views thereon. The Japanese delegation, moreover,
5 made preparations for subsequent negotiations by draw-
6 ing up the following tentative plan for inserting
7 the common upper limit formula into the British plan
8 in the event of that plan being adopted as a basis
9 of discussion.

10 "The two tentative plans were based on the
11 Paul Boncour plan already mentioned and the London
12 Treaty, and had incorporated in them some of the
13 desires of both Great Britain and U.S.A.

14 "E. The Preliminary Negotiations went into
15 recess on 19 December. The Japanese delegation,
16 wishing to see it reopened not later than the follow-
17 ing March, voiced the desire that the recess should
18 be for a specified period. To which the British
19 Foreign Minister replied that there would be no
20 objection to that if the Americans were willing (at
21 the Anglo-Japanese meeting on 18 December). If the
22 negotiations could be resumed as the Japanese delega-
23 tion desired, it was intended that Vice-Admiral
24 YAMAMOTO and most of the members of the delegation
25 who had been despatched from Tokyo should remain in

London.

1 "The American delegation however not only
2 did not wish to commit themselves on the date, but
3 expressed the view that no useful purpose could be
4 served by reopening the conversations without a
5 definite basis. And the British, fearing that
6 further insistence on that point might mean final
7 adjournment then and there, expressed reluctance to
8 press the matter on the Americans. The Japanese
9 delegate therefore approached the Americans directly
10 (on 19 December), but without success. It thus
11 became impossible to come to any definite agreement on
12 the date of resumption of the negotiations; so it was
13 merely agreed that an opportune time for resumption
14 should be found at as early a date as possible.

15 "Although it became impossible thereafter to
16 negotiate with the British and Americans officially,
17 the Japanese delegation believing that it would be to
18 the mutual advantage of the Powers concerned to have
19 the way smoothed for the negotiations when it should
20 be resumed and to find out how the besetting difficul-
21 ties might be solved, continued conversations with the
22 British even after the official recess (28 and 29
23 December, and 18 January). On 28 December, at a meeting
24 attended by Admiral Chatfield and Mr. Craigie,
25

1 Vice-Admiral YAMAMOTO was asked whether he, upon
2 return to Japan, would be able to obtain his
3 Government's approval to taking the building program
4 formula as the basis of discussion. His reply was
5 that he did not think that was impossible if the
6 question of the common upper limit could be solved,
7 and that in any case he would cooperate by doing his
8 utmost to dissolve the difficulties in the way.

9 "Upon return to Japan, Vice-Admiral YAMAMOTO
10 submitted a report to the effect that while he re-
11 gretted the inability of the Powers concerned to reach
12 understanding, he did believe that the negotiations
13 had enabled them to know each other's demands; but
14 that even greater effort would be needed in the
15 future in order to prevail upon the British and
16 U.S.A. to recognize Japan's demands (Annex Document
17 No. 16).
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1 "VIII. Regarding abolition of the Washing-
2 ton Treaty.

3 "Since Japan's demand at the Preliminary
4 Negotiations was based on the principle of equal
5 footing for all the Powers concerned, which differed
6 fundamentally from the system of discriminatory
7 strengths provided for by the Washington Treaty,
8 Japan had reached the conclusion that the amendment
9 of the kind she considered necessary could not be
10 effected under the relevant provision of the Washing-
11 ton Treaty (Art. 21), and that in order to secure a
12 treaty founded on a new basis the only sure way was
13 to abrogate that Treaty in pursuance of Art. 23,
14 para. 1 and to ask for another conference to be con-
15 vened within one year in accordance with the second
16 paragraph of the said Article. And it was so
17 indicated in the instructions.

18 "With regard to the method of abrogation,
19 it was stated in the instructions that it should be
20 done so as to cause as little commotion as possible,
21 and that the utmost care should be paid to preclude
22 any adverse effect upon subsequent negotiations. If
23 possible, the steps for abrogation should be taken
24 jointly by the Powers concerned, to be followed by
25 a concerted effort by them all to consummate a new

1 agreement.

2 "Acting in accordance with the purport of
3 those instructions the Japanese delegate to the
4 Preliminary Negotiations, on 24 October and after,
5 continued to negotiate with the other delegations,
6 but were not successful in obtaining their approval
7 nor a clear-cut statement of opinion.

8 "Thus it was Japan delayed the notice of
9 abrogation as long as possible, and caused Ambassador
10 SAITO to notify Secretary of State Hull on 29 De-
11 cember. Consequently it should be clear that Japan
12 did not give notice of abrogation after waiting to
13 see the result of the Preliminary Negotiations; it
14 came after the recess merely because Japan acted
15 in accordance with the desires of the Powers con-
16 cerned.

17 "And, as already stated, Japan was not
18 satisfied with the substance of the armaments
19 allotted under the Washington Treaty even at the
20 time of its conclusion. To retain that Treaty
21 without modifications even after its expiration in
22 1936, in disregard of the various developments in
23 technique and weapons and changes in national con-
24 ditions and international relations, it appeared to
25 Japan, would be to deprive the Treaty's substance

1 of the attributes of fairness and justice, and hence
2 improper.

3 "Japan thus abrogated the Washington Treaty
4 for no other purpose than to open the way for the
5 conclusion of new treaty that would be consonant
6 with new developments and conditions and satisfac-
7 tory to the various Powers, and to make it certain
8 that a conference for drawing up such a treaty would
9 be called. And the reason the abrogation was
10 effected before the end of 1934 was to make the con-
11 ference which would have to be called in consequence
12 of that abrogation coincide in time with the 1935
13 Conference envisaged by Art. 23, para. 2 of the
14 London Naval Treaty.

15 "IX. The 1935 London Conference was
16 opened on 9 December.

17 "A. The Japanese Government being thus
18 definitely informed that the discussions of the
19 coming conference were to cover the whole field of
20 naval limitation, accepted the invitation of the
21 British Government and despatched as delegates
22 Admiral NAGANO and Ambassador Matsuzo NAGAI. The
23 Japanese Navy also considered the idea of sending
24 Vice-Admiral YAMAMOTO who had headed the Japanese
25 delegation to the Preliminary Negotiations. But

1 considering that the other Powers would be repre-
2 sented by high-ranking officers, Admiral NAGANO was
3 named delegate as a matter of courtesy to the other
4 delegates, and also because he was well-qualified
5 by reason of his experience as a delegate to the
6 1932 Geneva General Disarmament conference. Am-
7 bassador NAGAI had been one of Japan's delegates to
8 the 1930 London Naval Conference.

9 "The Japanese Government accepted the in-
10 vitation of the British Government on 29 October.
11 But prior thereto, on 18 October, informed the
12 British Government of its desires (already made
13 clear at the Preliminary Negotiations) regarding the
14 1935 Naval Limitation Conference and clarified its
15 attitude toward the question of disarmament.

16 "In the light of the attitudes and con-
17 tentions of the various Powers at the Preliminary
18 Negotiations, special attention of the Japanese
19 delegates to the 1935 London Naval Conference was
20 called to the following points:

21 "(a) Although the British concept of an
22 absolutely necessary strength in armaments was in
23 some respects inconsistent with the achievement of
24 arms limitation, it was necessary, in order to make
25 consummation of an agreement on disarmament certain,

1 to give the utmost consideration to Britain's de-
2 mand in view of her special national circumstances.

3 "(b) Although Japan's proposal was to fix
4 a maximum limit for the naval armaments of the
5 stronger naval Powers, as a practical question there
6 would be no objection to doing that in such a way
7 that it would take a considerable period for Japan's
8 navy to reach that limit.

9 "(c) Since the problems of the European
10 Powers were extremely complicated, Japan should not
11 become too deeply involved in them.

12 "(d) Consummation of a disarmament agree-
13 ment being most desirable as a measure for allaying
14 the state of uneasiness then existing throughout the
15 world, efforts to that end should be made to the very
16 last.

17 "(e) Since the lightening of the people's
18 burden was an urgent need for Japan, the agreement
19 to be made should be of such nature as will meet
20 that need without fail.

21 "By way of reference material, a study made
22 with reference to expenditures for armaments was
23 also handed to the delegation (Annex Document No.
24 18).

25 "B. The Conference was opened on 9 December

1 1935 and was attended by the representatives of
2 France and Italy, in addition to the American,
3 British and Japanese delegates. But this time, un-
4 like in the case of the Preliminary Negotiations,
5 formal meetings were the general rule; and as these
6 meetings were attended by large numbers, opportunities
7 for frank talks were few. As a result, explanations
8 offered by the Japanese delegation might not have
9 been adequate at times; but it is a fact that every
10 effort was directed toward achieving an agreement.

11 "The other Powers concerned, however, were
12 mainly concerned with maintenance of the status quo,
13 and showed little interest in carrying out a thorough-
14 going arms limitation. They confined their efforts
15 for the most part to criticisms of the Japanese
16 proposal, and no new ideas to meet new conditions
17 were brought forward with reference to quantitative
18 limitation."

19 THE PRESIDENT: Do you think we should
20 have these interpretations of what the other Powers
21 thought from this witness?

22 MR. ROBERTS: We feel that in view of his
23 presence at the conference he is qualified to tell
24 us what they said and the expressions were.

25 THE PRESIDENT: If what they said appears

1 be a matter of urgent necessity. Nor did they think
2 that their proposal was necessarily an idealistic
3 one, nor one that would be difficult to put into
4 practice, - the more so as other plans similar to
5 it in formula had already been put forward by other
6 Powers at earlier conferences, as already stated,
7 and a part of it had actually been incorporated into
8 an agreement. And in the way of plans for sweeping
9 disarmament, there was the so-called 'Hoover Plan'
10 calling for a one-third or one-fourth reduction in
11 naval armaments which was submitted by the American
12 delegation to the 1932 Geneva General Disarmament
13 Conference in June 1932. And in November of the
14 same year, a proposal for an even more sweeping
15 reduction in air armaments was submitted by Sir
16 John Simon of the British delegation. All of the
17 above plans had been taken into consideration, more
18 or less as a pattern, in formulating the Japanese
19 proposal. And since the Japanese delegation were
20 prepared, moreover, to delay enforcement for a con-
21 siderable period in the event immediate enforcement
22 should be found difficult, they did not feel that
23 they were trying to force the impossible or anything
24 radically unreasonable upon the other Powers.
25

"Such was the general situation in the

1 1935 and was attended by the representatives of
2 France and Italy, in addition to the American,
3 British and Japanese delegates. But this time, un-
4 like in the case of the Preliminary Negotiations,
5 formal meetings were the general rule; and as these
6 meetings were attended by large numbers, opportunities
7 for frank talks were few. As a result, explanations
8 offered by the Japanese delegation might not have
9 been adequate at times; but it is a fact that every
10 effort was directed toward achieving an agreement.

11 "The other Powers concerned, however, were
12 mainly concerned with maintenance of the status quo,
13 and showed little interest in carrying out a thorough-
14 going arms limitation. They confined their efforts
15 for the most part to criticisms of the Japanese
16 proposal, and no new ideas to meet new conditions
17 were brought forward with reference to quantitative
18 limitation."

19 THE PRESIDENT: Do you think we should
20 have these interpretations of what the other Powers
21 thought from this witness?

22 MR. ROBERTS: We feel that in view of his
23 presence at the conference he is qualified to tell
24 us what they said and the expressions were.

25 THE PRESIDENT: If what they said appears

1 in official publications, we should have what they
2 said out of those publications.

3 MR. ROBERTS: We have referred to the
4 agenda for the official documents in most cases, and
5 as far as the official reports of what the other
6 delegates said in full, we felt that that would
7 consume so much time that the man who was present
8 would perhaps be able to summarize and save us con-
9 siderable time, and give us the same information
10 with the same effect.

11 THE PRESIDENT: This is not a summary, it
12 is an interpretation which is objectionable. I do
13 not want him to tell me what the British delegates
14 said; I want to know what the British delegates said
15 from the official reports of what they said.

16 MR. ROBERTS: We are perfectly willing that
17 his statement as to what they said be compared with
18 the official reports, if the Court so desires.

19 I continue, on page 65:

20 "C. It was the belief of the Japanese
21 Delegation that while world insecurity might be
22 traced to numerous causes, the principal cause was
23 the fact of a few Powers with strong offensive arma-
24 ments causing the lesser Armed Powers to feel in-
25 secure. The removal of such a situation was felt to

1 be a matter of urgent necessity. Nor did they think
2 that their proposal was necessarily an idealistic
3 one, nor one that would be difficult to put into
4 practice, - the more so as other plans similar to
5 it in formula had already been put forward by other
6 Powers at earlier conferences, as already stated,
7 and a part of it had actually been incorporated into
8 an agreement. And in the way of plans for sweeping
9 disarmament, there was the so-called 'Hoover Plan'
10 calling for a one-third or one-fourth reduction in
11 naval armaments which was submitted by the American
12 delegation to the 1932 Geneva General Disarmament
13 Conference in June 1932. And in November of the
14 same year, a proposal for an even more sweeping
15 reduction in air armaments was submitted by Sir
16 John Simon of the British delegation. All of the
17 above plans had been taken into consideration, more
18 or less as a pattern, in formulating the Japanese
19 proposal. And since the Japanese delegation were
20 prepared, moreover, to delay enforcement for a con-
21 siderable period in the event immediate enforcement
22 should be found difficult, they did not feel that
23 they were trying to force the impossible or anything
24 radically unreasonable upon the other Powers.
25

"Such was the general situation in the

1 Conference. And although the Japanese delegates,
2 believing that the other delegates could be con-
3 vinced of their good faith and of the real
4 significance of their proposal if they but tried
5 hard enough, left nothing undone to explain the
6 merits of the proposal. The results, however, were
7 disappointing.

8 "D. The following are the answers of the
9 Japanese delegation to the questions and observa-
10 tions made by the various delegates on the Japanese
11 proposal, which were not exact duplications of those
12 made at the Preliminary Negotiations:
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1 "(1) Since the direct and greatest cause
2 of differences in what the British refer to as vulnera-
3 bility lies in unreasonable difference in naval
4 strengths, the first step toward the removal of those
5 differences should be the establishment of a common
6 upper limit.

7 "The Washington Treaty merely used the figures
8 obtained by a certain special method of computation
9 on the basis of existing strength, which was a casual
10 fact. It was concluded under the abnormal conditions
11 prevailing immediately after the first world war, and
12 the likelihood of having to amend it later was antici-
13 pated. By no means did it accord equality of security
14 to the Powers concerned.

15 "(2) By setting a common upper limit, and at
16 the same time radically reducing or totally abolishing
17 offensive weapons so as to render armaments substan-
18 tially non-aggressive and non-menacing, no Power will
19 menace another even if it builds within the common
20 upper limit the arms necessary for its defense; nor
21 will the various Powers feel mutually menaced even if
22 the common upper limit further lowered. Nor can there
23 be any apprehension of arms expansion.

24 "(3) Recognizing that an agreement among the
25 three Powers whose positions from the standpoint of

1 sea defense were similar was the first essential step
2 toward disarmament, Japan merely wished to first
3 determine a criterion applicable to those three. But
4 if that method is not acceptable there would be no
5 objection to having the five Powers join the discussion
6 from the beginning, nor to have discussions first by
7 the European Powers, to be followed later by discussions
8 by U.S.A., Great Britain and Japan.

9 "(4) Because of the high mobility of naval
10 vessels, it is no difficult matter for a country to
11 concentrate its warships at a single point whenever
12 necessary. So if a country were to possess two forces
13 on the ground of its having responsibilities in far-
14 scattered areas, its armaments are bound to become a
15 menace to others. Depending upon the point of view,
16 such a demand might even be construed as a demand for
17 the right to possess armaments on a two-Power or even
18 greater standard. Such a demand is untenable from
19 the standpoint of any agreement on disarmament.
20

21 "E. The attitude taken by the Japanese
22 delegate toward the above proposals of the other
23 Powers was as follows (statement by Admiral NAGANO
24 at the 9th meeting of the First Committee on
25 8 January, 1936):

"The Japanese delegation attaches the greatest

1 importance to the question of quantitative limitation
2 and believes that the creation of a state of non-
3 aggression and non-menace through quantitative limi-
4 tation is a condition prerequisite to an agreement
5 on disarmament. Being therefore opposed to proceeding
6 to a discussion of other problems before a decision
7 has been reached on the question of quantitative limi-
8 tation, the Japanese delegate refrains from making any
9 statement now on the exchange of information but
10 reserves all observations thereon for another occasion.
11 But as regards the parts of the French and Italian
12 plans which are based on the idea of quantitative
13 limitation, that is to say, the parts which are con-
14 cerned with a declaration of building programs, ob-
15 servations thereon will be offered in due course.

16 "The fact of the French plan having been
17 prepared with care can be readily recognized. But
18 it does not appear to be the most suitable method for
19 readjusting the existing relations between navies;
20 nor has sufficient consideration been given therein
21 to the need for securing real reductions in armaments;
22 and it is not likely to prove an effective check on
23 naval competition. With such defects, the application
24 of the French plan cannot bring about an agreement
25 on quantitative limitation that will be really

1 effective. The French plan, moreover, appears to be
2 aimed at limiting the quantity of naval construction
3 chiefly for reasons of economy, and has not given
4 sufficient consideration to the basic principle of
5 equal security for all Powers.

6 "The Italian plan, too, has been prepared
7 with great care. With the purport of Article I
8 recognizing clearly the sovereign right of each Power
9 in matters pertaining to its naval armament in par-
10 ticular, the Japanese delegation associates itself
11 whole-heartedly. But the plan cannot be accepted,
12 for much the same reasons as those stated in connection
13 with the French plan.

14 "With reference to the 2nd British plan
15 (substituted for the 1st British plan), Admiral
16 NAGANO stated at the 9th meeting of the Committee on
17 8 January that he would reserve his observation thereon
18 till a later time because it was concerned merely
19 with exchange of information. But with reference to
20 the 1st British plan dealing with declaration of
21 building programs, observations were made at the 7th
22 meeting of the Committee on 20 December, to the follow-
23 ing effect;

24 "(1) Although the Japanese delegation is
25 wholly in accord with the principle set forth in the

1 British plan that 'naval strength should be based on
2 the minimum limits required for national security
3 of the respective Powers'; but in actual practice
4 there is no other course but to go back to the prin-
5 ciple of equality of armaments.

6 "(2) Although the British plan is said not
7 to be based on the ratio system, it is very similar
8 to it. And since nothing is made clear regarding the
9 scrapping of ships, it will be difficult to effect
10 any modification of the relations now existing between
11 the various navies, and hence will result in the main-
12 tenance of the present relations in general.

13 "(3) The British plan has given no considera-
14 tion to the carrying out of positive reduction. The
15 aim of disarmament cannot be attained even if quali-
16 tative limitation should be carried out.

17 "(4) The British plan may even lead to an
18 increase in armaments if a Power submits a plan of
19 excessive size.

20 "(5) It has been explained that the Japanese
21 thesis regarding security of national defense has
22 been incorporated into the British plan. But such
23 does not appear to be the case since what Japan is
24 demanding is that differences between armaments be
25 substantially removed.

1 "There was also the American plan suggesting --
2 though not strongly insisting upon -- a 20% reduction.
3 To this plan the Japanese delegate made the obser-
4 vation that while a proportionate reduction of 20%
5 on the existing strength of the various Powers might
6 be effective as a measure of disarmament, it could
7 not be productive of fair results (informal Japanese-
8 American meeting of 7 December and 9th meeting of the
9 First Committee of 8 January).

10 "F. In the following paragraphs is given
11 an account of the various efforts made by the Japanese
12 delegation during the Conference to obtain the under-
13 standing and collaboration of the other delegations
14 on the Japanese proposal.

15 "Beginning with the informal Anglo-Japanese
16 meeting of 7 December, 1935, the Japanese delegation
17 continued negotiations, both formal and informal, with
18 the representatives of other Powers until 16 December;
19 and thereafter also efforts were made to explain the
20 purport and application of the Japanese proposal when-
21 ever opportunity presented itself. And with regard
22 to Britain's vulnerability, which appeared to be a
23 big obstacle to agreement, the Japanese delegation
24 were prepared to give it the utmost consideration short
25 of altering its own basic policy on disarmament; and

1 to that end, when Admiral Chatfield stated at the
2 2nd informal Anglo-Japanese meeting of 13 December,
3 1935, that Britain's vulnerability being high, she
4 required an absolute minimum in certain specified
5 categories as well as relative strengths in other
6 categories; so Britain's position would be rendered
7 extremely difficult under the common upper limit. He
8 then asked whether Admiral NAGANO would recognize
9 Britain's special minimum requirement, or would be
10 opposed to it. To which Admiral NAGANO replied that
11 since he knew, as a matter of common sense, that
12 Britain's vulnerability was high, he recognized the
13 need of making big adjustment for Britain; but the
14 degree of adjustment must be studied. He further
15 explained that since Japan well understood Britain's
16 position, there would not be actual parity even under
17 the common upper limit. And to Mr. Craigie's ques-
18 tion as to whether Admiral NAGANO realized that,
19 depending upon how the common upper limit is fixed,
20 certain countries might require armaments in excess of
21 that limit, the latter replied that while it would
22 be all right to take Britain's strength as the common
23 upper limit, it was mutually desirable to avoid exciting
24 the peoples of the various countries; consequently
25 it was necessary to refrain from inserting in the

1 as combat units was considered inadequate. (The
2 question of retention of over-age vessels was recog-
3 nized also in the Anglo-Japanese compromise plan at
4 the 1927 Three-Power Conference, and was also suggested
5 by the British at the Preliminary Negotiations.)

6 "The above circumstances can be readily under-
7 stood from the speech made by Admiral NAGANO at the
8 10th meeting of the First Committee on 15 January,
9 1936. At any rate, it was the view of the Japanese
10 delegation that however its attitude might appear as
11 to form, there was no substantial inconsistency with
12 Japan's basic thesis.

13 "H. The situation was further complicated
14 by the fact that all the Powers, with the exception
15 of U.S.A., were not desirous of effecting arms reduc-
16 tion and placed emphasis on qualitative limitation
17 rather than on quantitative limitation. And the only
18 other question they seemed to be interested in dis-
19 cussing was that of exchange of information. And since
20 the Japanese delegation was firmly of the belief that
21 without quantitative limitation it would be impossible
22 to achieve real disarmament, to protect the sense of
23 security of the various Powers or to secure economy
24 on naval expenditures, it requested, at the 9th meet-
25 ing of the First Committee on 8 January, 1936, that

1 the agenda thereafter should be so arranged as to
2 obtain decision first on quantitative limitation, to
3 be followed by discussion of the questions of quali-
4 tative limitation and exchange of information.

5 "On the following day, i.e., 9 January, an
6 informal Anglo-Japanese meeting was held at the Foreign
7 Office at 4 p.m. upon the suggestion of the British
8 delegation. At this meeting Viscount Monsell said,
9 'We have now the Japanese plan, the British plan and
10 the French plan before the Committee. If we return
11 to the discussion of these three plans, the time will
12 come when it will be necessary to make decisions on
13 them. Does the Japanese delegation desire that?'
14 To which Admiral NAGANO replied, 'If it is clear that
15 no other plans are to be submitted anew, please do
16 so whenever it is convenient for you.' Viscount Monsell
17 then said, 'There is no other plan; and since the
18 Japanese plan was submitted first it will be necessary
19 to take a decision on that first. But in the event
20 the Japanese plan is rejected, will the Japanese dele-
21 gation be able to remain in the Conference still?
22 And should you withdraw from the Conference and the
23 four Powers decide to continue the discussions in order
24 to consider such questions as qualitative limitation
25 and exchange of information, will Japan be able to

1 leave an observer?'

2 "Such a situation never having been anticipated
3 by the Japanese delegation, Admiral NAGANO therefore
4 replied that 'the matter was beyond the scope of his
5 instructions.' Immediately thereafter the Japanese
6 delegation reported the situation in the Conference to
7 the Foreign Minister and asked for urgent instructions
8 as to the attitude to be taken thereafter (Annex
9 Document No. 19). The Foreign Minister's instructions
10 (Annex Document No. 20) were received on 12 January.

11 "The purport of the new instructions was
12 briefly as follows -- You shall further explain at
13 the Committee meetings and other gatherings the thesis
14 which Japan has always maintained regarding the firm
15 establishment of the principle of non-aggression and
16 non-menace and a sweeping reduction in armaments to be
17 achieved through the setting of a common upper limit,
18 which is the fundamental policy of the Japanese Govern-
19 ment, and reductions, both quantitative and qualitative,
20 in offensive armaments. Nothing shall be left undone
21 to show that what the Japanese Government earnestly
22 desires is the conclusion of a fair and reasonable dis-
23 armament treaty and that it entertains a sincere con-
24 cern for the work of disarmament. And even if then
25 Japan's thesis does not receive the final approval

1 of the other Powers, withdrawal from the Conference
2 may be unavoidable. But even in such an eventuality,
3 in order to avoid unfavorable effect upon international
4 relations, effort should be made to save the situation
5 by having the five Powers agree to matters on which
6 they can come to agreement, then to have the Powers
7 concerned make a joint declaration not to engage in an
8 armament race before bringing the Conference to a close;
9 all other questions to be turned over to a new Conference
10 to be held thereafter by the four Powers. There will
11 be no objection to having an observer present at the
12 Four-Power Conference.

13 "On the following day, i.e., 13 January,
14 therefore, the Japanese delegates had a meeting with
15 the British delegation and voiced their desire to offer
16 further detailed explanations on the Japanese plan at
17 the next meeting of the First Committee with the object
18 of obtaining the understanding of the various Powers,
19 and to take steps to obtain agreement first on the ques-
20 tion of restrictions on the use of submarines and other
21 questions upon which there was prospect of agreement
22 among the five Powers. But the suggestion to have
23 the questions upon which there was prospect of agreement
24 by the five Powers was rejected by the British. The
25 next question taken up was that of the measures to be

1 taken in the event of the Japanese plan not being
2 approved by the other Powers. The Japanese delegates
3 expressed the desire that in such an eventuality a
4 vote should not be taken on the Japanese plan; and
5 since it was obvious that agreement by the five Powers
6 on the question of quantitative limitation would be
7 difficult, it was desirable from the standpoint of
8 preserving the tranquility of international relations
9 to end this Conference at this point by going through
10 the form of an indefinite postponement, after the
11 pattern of the 1927 Geneva Three-Power Naval Con-
12 ference. But as this, too, was rejected by the British,
13 the Japanese delegation was forced to go to the next
14 meeting of the First Committee without being able to
15 do anything more.

16 "On 15 January, at the 10th meeting of the
17 First Committee, Admiral NAGANO offered detailed
18 explanations on the Japanese plan and answered points
19 on which the other Powers had doubts, and asked that
20 they consider the Japanese plan (Annex Document
21 No. 21).

22 "The various delegates made observations on
23 the Japanese proposal from their respective points
24 of view, expressing concurrence on some points, oppo-
25 sition to others.

"Finally, the Chairman spoke as follows,

1 'The discussion of the Japanese proposal has now pro-
2 ceeded as far as it usefully can. All the delegations
3 have considered it carefully, both inside and outside
4 the Conference; but I have to note that it has
5 received no support. Furthermore, this Japanese
6 proposal deals in the main only with quantitative
7 limitation, and quantitative limitation itself is only
8 a limited part of the many problems before this Con-
9 ference. I therefore think the best plan will be
10 adjourn the meeting and to proceed at the next meeting
11 with the other important work before the Committee,
12 beginning with the French, Italian and United Kingdom
13 proposals for the advance notification of building
14 programs.'

16 "Having come to this pass, the Japanese
17 delegation felt that they had done everything that
18 should have been done, and that there was nothing more
19 that they could do. And as they were firmly of the
20 opinion that only arms limitation agreement without
21 quantitative limitation would not only fail to attain
22 the aims of arms limitation, but would lead to an un-
23 fair result they felt that they could make no further
24 contribution to the Conference even if they remained
25 in it. Hence there remained no alternative but to

1 withdraw from the Conference. On the evening of
2 15 January, therefore, notice was given to the Chair-
3 man of the First Committee to the effect that the
4 Japanese delegation considered that no useful purpose
5 would be served by its continuing to participate in
6 the discussions of the Conference; and on the 20th
7 the Conference was notified that while the Japanese
8 delegation could not continue to participate in the
9 discussions of the Conference, an observer would be
10 left (Annex Document No. 22).

11 "The Japanese delegation had attended the
12 Conference with high hope of consummating a fair and
13 just agreement on disarmament, and had even completed
14 study of plans for a further extension of the agree-
15 ment (Annex Document No. 23). But as so many features
16 of the Conference turned out to be contrary to Japan's
17 expectations, there was finally no choice but to
18 withdraw. In his report the Japanese delegate expressed
19 deep regret over the withdrawal from the Conference
20 (Annex Document No. 24).

21 "On this 30th day of July, 1947."
22

23 You may cross-examine.

24 THE PRESIDENT: Mr. Comyns Carr.

25 MR. COMYNS CARR: May it please the Tribunal,
I do not quite understand what is supposed to be the

1 position with regard to these annexes.

2 THE PRESIDENT: We take it they are in evi-
3 dence as part of the document so far as admitted.

4 MR. COMYNS CARR: If your Honor pleases,
5 with regard to cross-examination we feel that no use-
6 ful purpose would be served by repeating to this wit-
7 ness the questions which I put to Admiral KONDO yes-
8 terday; and under those circumstances, we do not pro-
9 pose to cross-examine.

10 MR. ROBERTS: May the witness be excused on
11 the regular terms?

12 THE PRESIDENT: He is excused on the usual
13 terms.

14 (Whereupon, the witness was excused.)

15 THE PRESIDENT: Mr. Brannon.

16 MR. BRANNON: This concludes the naval portion,
17 the naval subtopic, of the Pacific Phase, with the
18 exception of one document which we are waiting for.
19 The Tribunal will recall that it was a purported
20 statement by American Admiral Nimitz relative to sub-
21 marine warfare. We ask permission of the Tribunal
22 to submit that upon receipt at a later time.

23 THE PRESIDENT: What about the document
24 withdrawn this morning, Mr. Brannon?

25 MR. BRANNON: The one additional document,

1942, will also be resubmitted.

1 Mr. Blewett, who is chairman of the Pacific
2 Phase, will now proceed with the army portion and
3 with his opening statement. Does the Tribunal wish
4 him to commence now or after the recess?

5 THE PRESIDENT: I suppose his opening state-
6 ment will take more than a few minutes, so we will
7 adjourn until half-past one.
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9 (Whereupon, at 1155, a recess was
10 taken.)

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AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Mr. Blewett.

MR. BLEWETT: Members of the Tribunal, the defense at this time is prepared to offer to the Tribunal evidence appertaining to the participation of the Japanese Army in whatever plans and preparations that were made prior to the commencement of the Pacific War. Emphasis will be laid upon the actual period of time during which these operations were initiated, the authority motivating them, and the extent and scope of their execution. Later presentation will relate to the conduct of the war and the circumstances pertaining to surrender.

Before considering the specific allegations against the army on war preparations we deem it essential at the outset to refer to two events in which the army functioned on behalf of its government to which some testimony has been offered by the prosecution.

While the Japanese Government is charged with coercing the general government in French Indo-China,

1 and attacking French Indo-China troops, there is some
2 implication that the army overstepped its authority
3 and we shall make clear that situation by competent
4 evidence.

5 Again, while the Japanese Government is charged
6 with coercing the general government of French Indo-
7 China to provide bases for aggression directly against
8 Great Britain and the Netherlands East Indies, and
9 indirectly against the United States, some suggestion
10 was present in the testimony offered concerning army
11 activities, and these matters will be dealt with for
12 complete clarification.

13 The prosecution under Section 5(b) Appendix
14 A of the Indictment proposed to produce evidence of
15 general military preparations for wars of aggression.

16 It commenced with an army explanation of the
17 meaning of the Mobilization Law and amendments thereto
18 taken from a Japanese newspaper. Reference was made
19 to the Military Service Law and the National Defense
20 Security Law. A population theory was offered from a
21 Planning Board pamphlet, and an excerpt was submitted
22 from a book by HASHIMOTO who was a civilian not connected
23 with any government section at that time on increase
24 in armaments. A resolution was referred to which was
25 adopted by the 6 September Imperial Conference relative

1 to a possible war with the United States and Great
2 Britain. A vast amount of evidence was placed in the
3 record concerning the hypothetical studies of the Total
4 War Research Institute, including cross-examination by
5 the defense.

6 Various telegrams were read concerning troop
7 movements in the middle and latter part of November, 1941.
8 A document showed administrative planning in southern
9 areas as formulated on 20 November, 1941. Other docu-
10 ments were placed in evidence regarding attitudes toward
11 foreign countries which were decided upon in November,
12 1941. Military administrative measures to be taken in
13 the event of war dated 12 November, 1941 were read as
14 well as a document dated as of 20 November with regard
15 to general military administration in areas to be occupied.

16 Considerable data was presented from prosecution
17 exhibit 809, a document prepared by SCAP. From this
18 publication, over the objection of the defense, various
19 parts were read into the record for the purpose of show-
20 ing a chronological reference in order to clarify the
21 sequence of Japanese military preparations covering the
22 period from 10 October to 7 December 1941. A chart was
23 offered showing the total strength of the Japanese army.

24 That concluded the phase of the prosecution's
25 case on military preparation for war, and we feel it

1 fitting and proper to set it forth in this statement
2 rather than wait for a later period so that the evidence
3 we are about to submit may be more helpful to the
4 Tribunal by comparison. The issues raised in Mr.
5 Liebert's testimony were considered previously in the
6 Economic sub-division.

7 To meet that type of doubtful inferential
8 evidence the defense will show that no plans or
9 preparations for a war with the United States and Great
10 Britain were put into execution until after September,
11 1941. Then while the government of Japan was exerting
12 every effort to achieve a peaceful solution of the
13 critical and perilous situation this same government --
14 there is a slight rearrangement of the sentence --rudent-
15 ly perceived the wisdom and necessity of preparing
16 at the same time for eventualities. Once that decision
17 was made the Army, logically as in all countries, was
18 charged with that grave responsibility.

19 Accepting the mandate, as it was obligated to
20 do through loyalty and duty, the Army proceeded to do the
21 best it could under most severe handicaps. Raw materials
22 were by that time almost non-existent; the supply of oil
23 was curtailed; finances were insufficient for the great
24 task imposed. We shall show how these plans were made,
25 the dates on which they were made, the difficulties

1 encountered, and how not only a new contingency had to
2 be provided against, but how two continuing ones had
3 to be recognized as well, two very serious ones - China
4 and the U.S.S.R.

5 In this emergency a new army was impossible
6 of creation so therefore troops and equipment that had
7 been long before provided for the North had to be rushed
8 to the South. Men after long years of service in China
9 were preparing for leave and furlough but their trips
10 home had to be delayed. Munitions in the far North,
11 and guns designed for use in that locality if necessary
12 were hastily packed up and sent to the South in an effort
13 to partially solve the new problem. It was a replica
14 of the same old story which many nations throughout
15 history have had to face suddenly forced to cope with
16 large-scale war preparations in spite of lack of time,
17 raw materials, industrial plants, skilled workmen,
18 machine tools, a sufficient body of highly trained army
19 officers and a thousand other vital requirements.

20 If the prosecution contention can be sustained
21 that Japan was an all out arsenal geared up to feverish
22 and complete war production it would seem that some
23 direct proof of this should have been supplied. If
24 the contention be true that huge preparations had been
25 underway since 1937 or thereabouts it would be normal

1 to expect to find a nation bristling with guns, tanks,
2 airplanes, and every conceivable manner of powerful
3 scientific weapons and all the accoutrements of modern
4 destruction. But if all these were created they do not
5 seem to have been put to use as would be expected nor
6 were they on hand to stem the tide of final demolition.

7 It is well known that when invasion of the
8 Japanese home islands was imminent the coast lines were
9 defended with cannon used in the Russo-Japanese war and
10 new recruits armed with bambo poles. The equipment was
11 not lost in battle as there were no large scale land
12 engagements as in Europe. And certainly if Japan had
13 been conspiring and preparing for an aggressive war over
14 a long period of years she would have had a swarm of
15 fighting planes, fleets of bombers and a multitude of
16 troop carriers.

17 Proof will be submitted which, we submit, will
18 completely erase the theory that the Japanese army
19 through these accused was for years conspiring, preparing
20 and outfitting itself for aggression, as alleged by the
21 prosecution. On the other hand it will be demonstrated
22 that only when plans and preparations for defense in
23 the late fall of 1941 were belatedly decided upon, after
24 hope for peaceful settlement of outstanding issues became
25 all but hopeless, the army took over the job assigned to

1 it and not before.

2 THE PRESIDENT: That resembles a summation
3 more than an opening, Mr. Blewett.

4 Mr. Tavenner.

5 MR. TAVENNER: If the Tribunal please, the
6 prosecution views the last paragraph as probably the
7 only paragraph that is in this opening statement which
8 is truly of an opening statement character. And it is
9 desired only to call the Tribunal's attention to what
10 we claim to be a fact, that the rest of it is mere argu-
11 ment or summation and that the Tribunal will not be
12 influenced by it at this stage.

13 THE PRESIDENT: Mr. Blewett.

14 MR. BLEWETT: I respectfully refer the Tribunal
15 to exhibit 2344, a list of cabinet members through all
16 the years covered by the Indictment.

17 Starting as we are now with army activity in
18 September 1940 I call your attention to the composition
19 of the Cabinet at that time, which is the 2nd KONOYE
20 Cabinet, and remind you that of these accused, but four
21 are members of that Cabinet, and of these two are but
22 Ministers without Portfolio.

23 General TOJO, as War Minister, was serving his
24 first post as a member of a cabinet.

25 I refer to exhibit No. 615-A. A portion of this

1 exhibit was read by the prosecution in the French phase
2 of the case beginning on page 6795 of the record, dealing
3 with Japanese protests relative to the transportation
4 of war materials through Indo-China to China. I shall
5 read from exhibit 615-A commencing on page 3 entitled
6 "Attitude Toward Japan" and ending on page 4.

7 "ATTITUDE TOWARD JAPAN" (pp. 68, 69, 70)

8 "As a centre for collecting information, French
9 Indo-China has likewise been of great service to Chung-
10 king. Complying with the latter's request to station a
11 Chinese Staff Liaison officer in Tongking, permission
12 was duly accorded to Chungking's military representative
13 to reside there from February 1940. His sole purpose
14 was the gathering of information of military importance
15 in close collaboration with the French colonial authorities.
16 The local press, which had adopted an attitude of strict
17 neutrality toward Sino-Japanese relations prior to the
18 outbreak of the China Affair, turned anti-Japanese there-
19 after, broadcasting and disseminating news fabricated
20 by the Chiang Kai-shek regime deriding Japan and to the
21 advantage of the Chinese. Moreover, the colonial
22 authorities have been instigating the natives against
23 Japan so that some 300,000 Chinese settled there are
24 greatly encouraged in their anti-Japanese attitude.

25 "Nor can the fact be overlooked that in the

1 exhibit was read by the prosecution in the French phase
2 of the case beginning on page 6795 of the record, dealing
3 with Japanese protests relative to the transportation
4 of war materials through Indo-China to China. I shall
5 read from exhibit 615-A commencing on page 3 entitled
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17 neutrality toward Sino-Japanese relations prior to the
18 outbreak of the China Affair, turned anti-Japanese there-
19 after, broadcasting and disseminating news fabricated
20 by the Chiang Kai-shek regime deriding Japan and to the
21 advantage of the Chinese. Moreover, the colonial
22 authorities have been instigating the natives against
23 Japan so that some 300,000 Chinese settled there are
24 greatly encouraged in their anti-Japanese attitude.

25 "Nor can the fact be overlooked that in the

1 construction of railways by the Chungking regime the
2 Government of French Indo-China has been giving valuable
3 assistance either through a syndicate or through the
4 French owned ~~Yunnan~~ Railway Company. The syndicate has
5 in fact behind it the guarantee of the French Government
6 to the extent of 100,000,000 francs. The construction
7 of the Chengtu-Chungking line was commenced last
8 February, and was to be completed within 20 months.
9 Work on another railway between Chungking and Kunming by
10 way of Suchow is also going on steadily with the aid of
11 French capital represented by a loan, amounting to
12 480,000,000 francs, advanced by the Government of French
13 Indo-China secured on the customs surplus revenue. In
14 return, French financial interests have been granted
15 mining rights along the Railway. Furthermore, the French
16 colony has acceded to Chungking's request to multiply
17 the freight capacity on the Yunnan Railway so as to ex-
18 pedite the transportation of goods stored at Haiphong
19 and Hanoi."

20 We refer to exhibit No. 618-A, starting on
21 page 6844 of the record. We respectfully call the
22 attention of the Tribunal to page 3 of the exhibit with
23 special reference to (page 24) of the complete report,
24 which gives the French Ambassador's reply to the Japanese
25 Foreign Office that the Governor-General of French

1 Indo-China decided to enforce complete blockade on the
 2 frontier between French Indo-China and China, and also
 3 that the Governor-General decided to accept the dispatch
 4 of military experts for inspection of supplies via
 5 French Indo-China.

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1 From prosecution exhibit No. 620, I shall
2 read portions not read into evidence to show that the
3 advancement of Japanese troops into French Indo-China
4 was under voluntary agreement and was not character-
5 ized in any manner as a compulsory or as a military
6 occupation.

7 The whole of page 2:

8 "2. The attitude of the French Government
9 concerning the action taken toward Japan by the Gover-
10 nor of French Indo-China.

11 "On July 15th, the French Foreign Minister
12 told Mr. SAWADA, the Japanese Ambassador who called on
13 him as requested, the following: When Major-General
14 NISHIHARA and Governor Catroux met recently, discus-
15 sion was completed and they mentioned the political
16 alliance relations between France and Japan. However,
17 Major-General NISHIHARA is understood to have been sent
18 for the purpose of observation over the embargoes on
19 the materials to be transported and as the Governor of
20 French Indo-China also has no authority to discuss polit-
21 ical problems of the above nature, I feel that both
22 sides have gone a little too far. But, by saying this
23 I have entirely no intention of expressing dissatis-
24 faction, rather I feel pleased to know that both sides
25 were able to talk so candidly and freely. From my

1 relation with the French Indo-China Bank, I have hither-
2 to advocated that in so far as the Far East is concerned,
3 France cannot but cooperate with Japan. But for the
4 last two or three years the Japan-Franco negotiations
5 have been complicated by theoretical disputes far from
6 actual reality and I believe today is the time to dis-
7 cuss frankly in order to unfasten the complication,
8 namely (1) to make the economic relations of minister-
9 ing each other's wants closer between Japan and French
10 Indo-China, and (2) to promote more intimate political
11 relations. The resolute steps taken by French Indo-
12 China to enforce embargoes on the transportation of
13 weapons via the YUNNON railway enduring great losses
14 of the railway company are the expression of my hopes
15 to accomplish my belief that we can confer with only
16 Japan in the Far East and not minding China's enmity,
17 which we may incur. However it is impossible to allow
18 the losses of the company to continue without limitation.
19 I hope that you will make some consideration to compen-
20 sate these losses. Therefore I hope my candid opinion
21 will be conveyed to the Japanese Government and hope
22 you will make sure of Japan's views.

23 "The Japanese Ambassador said that concerning
24 the NISHIHARA-Catroux meeting he had not yet received
25 any official information, but in view of the recent

1 relation with the French Indo-China Bank; I have hither-
2 to advocated that in so far as the Far East is concerned,
3 France cannot but cooperate with Japan. But for the
4 last two or three years the Japan-Franco negotiations
5 have been complicated by theoretical disputes far from
6 actual reality and I believe today is the time to dis-
7 cuss frankly in order to unfasten the complication,
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10 Indo-China, and (2) to promote more intimate political
11 relations. The resolute steps taken by French Indo-
12 China to enforce embargoes on the transportation of
13 weapons via the YUNNON railway enduring great losses
14 of the railway company are the expression of my hopes
15 to accomplish my belief that we can confer with only
16 Japan in the Far East and not minding China's enmity,
17 which we may incur. However it is impossible to allow
18 the losses of the company to continue without limitation.
19 I hope that you will make some consideration to compen-
20 sate these losses. Therefore I hope my candid opinion
21 will be conveyed to the Japanese Government and hope
22 you will make sure of Japan's views.

23 "The Japanese Ambassador said that concerning
24 the NISHIHARA-Catroux meeting he had not yet received
25 any official information, but in view of the recent

1 talks between Vice Minister of Foreign Affairs TANI
2 and French Ambassador Henry regarding economic problems
3 to be negotiated on the spot, I understand the Japa-
4 nese Government is intending to dispatch delegates to
5 French Indo-China in order to confer with the French
6 Indo-China authorities. And asked, that, in spite of
7 the above, do the French authorities intend to negotiate
8 at the French home /government/?

9 "The Foreign Minister replied that as to the
10 details they can be left to the authorities on the
11 spot, but the vital problems relating to politics and
12 economics he wishes to negotiate at the French home
13 /Government/."

14 On page 5, I shall read the answer from the
15 French Government, which is about the middle of the
16 page, which has not been read by the prosecution:

17 "The answer from the French Government to the
18 1st Japanese proposal of Aug. 1st (Conversation be-
19 tween Mr. MATSUOKA, the Foreign Minister, and Mr.
20 Henry, the /French/Ambassador/ Aug. 6th, the second
21 Franco-Japanese Meeting.)

22 "The French Government, becoming enlightened
23 as to the contents and subject matter of the request
24 of the Japanese Government, expressed their attitude,
25 through Mr. SAWADA, the Japanese Ambassador to France,

1 in the following manner. The present Japanese request,
2 which further pins down France which has suffered a
3 severe defeat in the war against Germany and also lost
4 her prestige, cannot be accepted as it stands now. The
5 reason being, not in the contents /of the request/ but
6 its /diplomatic/ formality. That is to say, France
7 has no objection as to its contents, but wishes it to take
8 the form of an agreement reached by mutual agreement;
9 rather than it being one forced /upon France/ by Japan.
10 France does not expect a large compensation from Japan.
11 At any rate France is ready to conclude an agreement
12 quickly if it is in the form of respecting French
13 sovereignty and honour; for instance, Japan should
14 promise that the stationing of Japanese troops in
15 Tongking is only a temporary measure, or that Japan
16 wishes to promote economic and political neighborly
17 relations with French Indo-China for Japan is anxious
18 for friendly relations with France.

19 "Nevertheless, on Aug. 6th, the French Ambass-
20 ador in Tokyo visited Mr. MATSUOKA, the foreign mini-
21 ster, bringing with him the reply which the ambassador
22 received from the home government and read the attached
23 document No. 1, by which it is understood that France
24 accepted the Japanese proposal, but desired that Japan
25 does not injure her prestige in the form /of the

1 agreement/, and further stressed that he desired to
2 negotiate with the vice-minister in regard to the
3 form of the agreement. To which the minister gave his
4 consent. Moreover, as the ambassador repeatedly stated
5 that Japan's request was trampling on France's prestige
6 and it was similar to that of an ultimatum. The
7 /Foreign/ Minister explained that Japan has no inten-
8 tions at all to injure France's prestige, and because
9 she wished to avoid this and prevent the occurrence of
10 such even in formalities, /Japan/ made the above request."

11 Page 19, Attached Document 1-2:

12 "Attached Document No. 1.

13 "Exchange of Notes.

14 "Mr. Ambassador:

15 "The Government of Japan being desirous of
16 promoting friendly relations between French Indo-China
17 and Japan and wishing to do their utmost for this pur-
18 pose, I have the honour of notifying your Excellency
19 that the same desires that the Government of France
20 with a spirit of cooperation to restore peace and
21 establish a new order in East Asia, will allow Japanese
22 troops to be sent for operations against China, to pass
23 through Tongking Province of French Indo-China and re-
24 cognize the use of the airfields in that province (in-
25 cluding the stationing of necessary guards), and to

1 furnish sufficient facilities for transporting arms,
2 ammunition and other necessary materials of the Japa-
3 nese Army.

4 "I have the honour to be

5 "Your Obedient Servant."

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7 "Attached No. 2

8 "I have the honour to acknowledge the follow-
9 ing from Your Excellency.

10 "The Government of Japan being desirous of
11 promoting friendly relations between French Indo-China
12 and Japan and wishing to do its utmost for this purpose,
13 I have the honour of notifying your Excellency that the
14 same desires that the Government of France with a
15 spirit of cooperation to restore peace and establish
16 a new order in East Asia, will allow Japanese troops
17 to be sent for operations against China, to pass
18 through Tongking Province of French Indo-China and
19 recognize the use of the airfields in that province
20 (including the stationing of necessary guards) and
21 furnish sufficient facilities for transporting arms,
22 ammunitions and other necessary materials of the Japa-
23 nese Army.

24 "I, according to instructions from the home
25 government, have the honour of replying that the

1 Government of France well understand the spirit of
2 goodwill expressed in your Excellency's letter cited
3 above and also accept the desires of the Government of
4 Japan."

5 Pages 29 and 30, these are referred to on
6 page 14:

7 "Attached Document 10 - 1

8 "30 August /1940/

9 "Mr. Minister.

10 "I have the honour of notifying your Excel-
11 lency that the Government of France recognize the
12 predominant interests of Japan in the economic and
13 political fields in the Far East.

14 "Therefore, the Government of France antici-
15 pates the Government of Japan will give their
16 assurance/s/ to the Government of France, that Japan
17 is with the intention of respecting the rights and
18 interests of France in the Far East, especially the
19 territorial integrity of Indo-China, and the sovereign-
20 ity of France in all parts of the Union of Indo-China.

21 "In regards to the economic field, France is
22 prepared to negotiate speedily as to the promotion of
23 trade between Indo-China and Japan, as well as the
24 method of assuring the most advantageous position
25 possible, and superior compared to that of the Third

1 Power, to Japan and its nationals.

2 "As to the provision of special military
3 facilities which Japan has requested of France, the
4 same understands the purport of the Imperial Govern-
5 ment to be completely in the settlement of the con-
6 flict between Generalissimo Chiang Kai-Shek, consequent-
7 ly the aforesaid is temporary, ceasing in the event
8 such a conflict is resolved and shall be applied to
9 only that province of Indo-China adjacent to China.
10 Under the above-mentioned condition the Government of
11 France are prepared to order the commander of the
12 French Army in Indo-China to settle the said military
13 problems with the Japanese commander. The demands sub-
14 mitted by the Imperial Japanese Government shall not be
15 excluded a priori, and orders issued to the French
16 military authorities shall not, in regards to the above
17 points, restrict the competence of the above author-
18 ities.

19
20 "The negotiations shall be carried out under
21 the following conditions.

22 "Both military commanders shall, upon their
23 word of honour as soldiers, exchange information which
24 would clarify the necessities of the Japanese Army and
25 the method by which the same may be satisfied. The
above mentioned desires of the Japanese Army shall be

1 limited to military operations in those provinces in
2 China adjacent to Indo-China.

3 "Following the exchange of information,
4 mutually reliable contacts shall be made between the
5 French and Japanese military authorities to provide
6 the necessary military facilities to the Japanese Army.
7 The Government of France shall not take any financial
8 responsibility concerning the various facilities pro-
9 vided to the Japanese Army. These facilities provided
10 shall not be of a military occupational nature, but
11 strictly limited to strategic necessities and conduct-
12 ed under the superintendence and intermediation of the
13 French military authorities.

14 "Lastly, the Imperial Japanese Government
15 shall promise to take the responsibility of compensat-
16 ing for damages sustained by Indo-China through the
17 act of war of that enemy which may be drawn into the
18 territory of Indo-China because of the presence of,
19 and also by the act of war of the Japanese Army itself.

20 "Your obedient servant,

21 "Charles Arsene Henry, Ambassador"

22 Page 33, General Remarks, under marked para-
23 graph (1):

24 "The negotiations about to be opened should
25 be conducted in a most amicable atmosphere.

1 Particularly whenever the French Military authorities
2 show any sign of friendliness towards the Japanese
3 Army of assist in protecting Japanese Army establish-
4 ment, Japan on the other hand will full appreciate
5 the French intention of carrying out the terms of the
6 agreement.

7 "Regardless of the situation, whenever the
8 French authorities give any facilities to the Japa-
9 nese Army it will not bear the nature of compulsion
10 through military occupation. The convenience thus
11 afforded to the Japanese Army will be strictly limit-
12 ed to the demand of strategical and tactical situation
13 and it will be performed under the supervision and
14 administration of the French Military authorities.

15 "From the position on the seacoast as a land-
16 ing place to the strategic zone transit is free but on
17 no account troops should be stationed for any length
18 of time between the landing place and the strategic
19 zone."

20 We offer in evidence defense document No.
21 1462-B, which is an excerpt from a book entitled,
22 "Collection of Official Statement Concerning
23 China Incident." I offer the book, numbered 1462,
24 for identification.
25

CLERK OF THE COURT: The pamphlet entitled,

1 "Collection of Official Statement Concerning China
2 Incident for December 1940," will receive exhibit
3 No. 3012 for identification only.

4 (Whereupon, the document above
5 referred to was marked defense exhibit
6 No. 3012 for identification.)
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1 MR. BLEWETT: From Exhibit 3012 for identifica-
2 tion I offer in evidence an excerpt, page 44,
3 defense document 1462-B.

4 THE PRESIDENT: Mr. Tavenner.

5 MR. TAVENNER: If it please the Tribunal, as
6 will be seen from examination of the certificate, this
7 is another of those documents ---

8 THE PRESIDENT: The French Judge has not been
9 supplied with a full copy.

10 Proceed, Mr. Tavenner, please.

11 MR. TAVENNER: This is another of those docu-
12 ments originating in the information bureau of the
13 Foreign Office, in both Japanese and English text,
14 and designed for publication. This is in the nature
15 of a self-serving article published for consumption
16 at home and abroad, of the same character as has been
17 rejected by the Tribunal on numerous other occasions,
18 and objection is made.

19 THE PRESIDENT: Mr. Blewett.

20 MR. BLEWETT: If the Tribunal please, this
21 is a document from an official source and an official
22 document from one of the important bureaus of the Jap-
23 anese government, and certainly similar in form and
24 context to numerous documents placed in evidence by
25 the prosecution. Not only that, your Honors, but this

1 is a joint communique involving not only the Japanese
2 but the French.

3 THE PRESIDENT: Mr. Tavenner.

4 MR. TAVENNER: In reply to the last statement,
5 the Tribunal will see that that is the title of this
6 publication made by the information bureau of the
7 Japanese Foreign Office.

8 MR. BLEWETT: We feel, sir, that the docu-
9 ment has probative value and its weight is certainly up to
10 the Tribunal to determine.

11 THE PRESIDENT: Well, it certainly is a joint
12 communique, whatever its purpose may be. That certainly
13 makes a difference. I have just received a note from
14 a colleague who takes exactly that view.

15 By a majority, the Court admits the document.

16 THE CLERK OF THE COURT: Defense Document 1462-B
17 will receive Exhibit No. 3012-A.

18 (Whereupon, the document above re-
19 ferred to was marked defense Exhibit No. 3012-A
20 and received in evidence.)

21 MR. BLEWETT: I shall read Exhibit 3012-A:

22 "Joint Communique of the Japanese and French
23 Governments On The Japanese Army Stationing Troops In
24 French Indo-China. (At 5 p.m., September 27).
25

"A fundamental understanding concerning French

1 Indo-China in view of promoting the establishment
2 of a new order in East Asia and the settlement of the
3 China Incident was reached during August at TOKYO be-
4 tween Foreign Minister MATSUOKA and French Ambassador
5 HENRY at TOKYO in a friendly manner.

6 "The Japanese Government gave assurance to the
7 French Government that she intends to respect the
8 rights and interests of France in East Asia, especially
9 the territorial integrity of Indo-China and the sover-
10 eignty of France to all of the Federation, and the
11 French Government consented to afford the Japanese
12 Government special facilities in Indo-China for the
13 Japanese Army and Navy necessary in the execution of
14 their operations.

15 "Furthermore, a conference between the Japan-
16 ese and French military authorities was held at HANOI
17 with the view of attaining a concrete agreement on the
18 offer of military facilities mentioned above and by
19 September 22, this had reached a satisfactory and
20 smooth conclusion."

21
22 I call the attention of the Tribunal that on
23 the cover of the book which has been offered for ident-
24 ification, is the year "1940", and settlement of the
25 China Incident was reached during August.

I call the witness SAWADA, Shigeru.

THE PRESIDENT: What about your defense document 2131, Mr. Blewett?

MR. BLEWETT: I forgot to mention, sir, that I have transferred that to the latter part of the presentation, where it fits in more feasibly.

- - -

1 S H I G E R U S A W A D A, called as a witness in
2 behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as follows:

4 MR. BLEWETT: May the witness be shown the
5 affidavit, please, defense document No. 1523?

6 (Whereupon, a document is shown
7 to the witness.)

8 BY MR. BLEWETT:

9 Q Is that your affidavit?

10 A Yes, it is. But there is one correction I
11 would like to make in the text.

12 MR. BLEWETT: You may do so.

13 THE WITNESS: On page 1 in the English text,
14 the fourth line of paragraph 2, the words, "I went,
15 with the permission of the Chief and the approval of
16 the War Minister, to Hongkong"; "to Hongkong" should be
17 corrected to "at Hongkong"; this should be "I was at
18 Hongkong," instead of "I went to Hongkong."

19 MR. BLEWETT: I offer in evidence defense docu-
20 ment No. 1523.

21 THE PRESIDENT: Admitted on the usual terms.

22 THE CLERK OF THE COURT: Defense document No.
23 1523 will receive defense Exhibit No. 3013.

24 (Whereupon, the document above re-
25 ferred to was marked Exhibit No. 3013 and re-

ceived in evidence.)

1 MR. BLEWETT: I shall read Exhibit No. 3013,
2 omitting the formal parts:

3 "1. From October 1939 to November 1940 I
4 served as Vice-Chief of the General Staff under
5 Imperial Prince KAN-IN, then the Chief of the
6 General Staff.

7 "2. Early settlement of the China Incident
8 was the policy Japan adhered to consistently. After
9 the operations in China began to show a tendency for
10 protraction, I went, with the permission of the Chief
11 and the approval of the War Minister, to Hongkong---

12 THE PRESIDENT: "I was at Hongkong" is what
13 I think he said. However, go head.

14 MR. BLEWETT: Oh, yes, your Honor. I made
15 the correction but I put it in the wrong place.

16 (continuing:) "where I held a secret liaison
17 conference for peace among the military representatives
18 of Japan and China. This conference, however, ended
19 in vain, and in consequence it became urgently necess-
20 ary for us to cut off Chungking from North French Indo-
21 China and the Burma Road, both of which were the most
22 important supply routes for Chungking. For this purpose
23 the Japanese Government opened negotiations with the
24 Vichy Regime and the British Government. As a result
25

1 of these negotiations it was decided that the above
2 Road should be closed voluntarily, and in June 1940
3 a special committee headed by Maj. Gen. NISHIHARA was
4 dispatched to French Indo-China in order to inspect the
5 conditions at the border.

6 "3. After the closing of the French Indo-China
7 Route, the Chungking Government steadily gathered its
8 forces along the border of French Indo-China, and it
9 was feared they might enter the French territory.
10 These circumstances led Japan to dispatch forces to
11 North French Indo-China for the defense of that area.
12 As a result of negotiations between Tokyo and Vichy, an
13 agreement was reached in August 1940 between Foreign
14 Minister MATSUOKA and Ambassador HENRI for the dispatch
15 of Japanese forces to North French Indo-China. The
16 details of the matter were left to agreements to be
17 reached at Hanoi between the military representatives
18 of Japan and French Indo-China.

19 "4. The negotiation in Hanoi encountered no
20 little difficulties. By some means, however, on 4 Sept.
21 we succeeded in bringing it to a point when the agree-
22 ment was about to be signed. However, an unfortunate
23 event broke out on 5 Sept. The MORIMOTO battalion,
24 on approaching the borders for reconnaissance purposes,
25 was informed by the commander in charge of the French

1 Indo-Chinese border forces, that they were entering
2 Indo-Chinese territory, whereupon the battalion immedi-
3 ately withdrew. However, not a shot was exchanged be-
4 tween them. According to further investigation, it was
5 reportedly not certain, whether the MORIMOTO battalion
6 had or had not, actually, wandered into their territory.

7 "5. Making an excuse of this occurrence, the
8 French Indo-Chinese authorities stiffened their attitude
9 to claim the over-all denunciation of the agreement which
10 was about to be signed. The Japanese, still desirous
11 of a peaceful settlement, resumed further negotiations,
12 but the French Indo-Chinese authorities remained uncompromising and we could hardly reach a conclusion.

13
14 "6. At that time the government of French
15 Indo-China had pledged their loyalty to the Vichy Gov-
16 ernment. Nevertheless we received information to the
17 effect that such was, more or less, dubious. Especial-
18 ly the attitude on their part to delay, on some pretext
19 or other, the carrying out of our occupation of Northern
20 French Indo-China, which had already been agreed to by
21 the Vichy Government, raised some suspicion. Thus an
22 Imperial Headquarters finding it necessary to demon-
23 strate a peremptory attitude with regard to the agree-
24 ment in Hanoi, issued instructions to Maj.-Gen. NISHIHARA
25 to demand a final answer on the part of the French Indo-

Chinese authorities by noon 22 Sept. However, the Imperial Headquarters adhered to bringing the agreement to a satisfactory close, and was quite desirous of making a peaceful advance. Should they refuse, we would have to resort to the alternative of occupation by force, and hereupon, orders were given to the South China Army to prepare, in advance, for any measures of war or peace. The foregoing orders issued by the Imperial Headquarters were to the effect that if an agreement was to be reached, we would make a peaceful advance from Haiphong in accordance with the said agreement; in case no consent could be obtained by noon 22 Sept., we should commence action at midnight on the 22nd, and make our way by force should their forces offer us resistance. It is reported that this written order has been burnt and no longer exists.

"The Chief of the General Staff Headquarters had sent the Chief of Military Operations to direct this action to be taken by the South China Army and was one which required utmost delicacy and prudence in handling.

"7. Noon of September 22 was the very moment to decide on war or peace. French Indo-China maintained an unbending attitude. Japan, being eager to keep peace at all costs, gave way at last. Thus the agreement for

1 advancement was finally completed in peace. Therefore
2 the agreement, which was scheduled to be concluded at
3 noon, was actually concluded a few hours past noon.
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1 "8. The news of the conclusion of the agree-
2 ment was immediately dispatched to our South China
3 Army, and the Commander-in-Chief of the Army ordered
4 his units to set about peaceful advancement. Unfor-
5 tunately, however, by that time the forward units of
6 our forces had commenced actions for free entry on a
7 report that the agreement had not yet been reached at
8 noon, and was advancing through a mountainous region
9 in dispersed order. These forward units did not know
10 that the agreement was afterwards reached. Therefore
11 at noon, 23 September, they began to enter French Indo-
12 China, a fact which resulted in the deplorable border
13 hostilities.

14 "9. Thanks to an order from Tokyo and to the
15 adequate remedial measures taken by General ANDO,
16 Commander-in-Chief of the South China Army, before the
17 arrival of that order, the hostilities at the border
18 ceased before entering a serious stage. The Japanese
19 forces returned to French Indo-China all that they had
20 obtained by the hostilities. Thus the matter was
21 completely settled.

22 "10. According to the agreement, Japanese
23 transports might have entered the Port of Haiphong
24 under the guidance of the French Navy, but as a fight-
25 ing had taken place on land to the north, an entry

1 into the port of Haiphong was considered dangerous
2 and, for this reason, a landing was made in safety
3 on the southern coast without provoking any battle.
4 At the time of this landing, a unit of Japanese patrol
5 planes dropped some bombs in the suburbs of the city
6 of Haiphong due to a misunderstanding of signals be-
7 tween the commander and his subordinates. As to this,
8 reparations were made for damage and the commander
9 was punished.

10 "11. The military strength of Japanese troops
11 in Indo-China consisted of about 1,000 soldiers in all,
12 if I remember rightly. The Japanese Military Authori-
13 ties considered it very dangerous to dispatch such a
14 feeble unit alone to a remote foreign land, but never-
15 theless, the Chief of the General Staff, in considera-
16 tion of a principle of peaceful occupation, decided
17 the least possible military strength that circumstances
18 would allow.

19 "12. The crossing of the frontier by the
20 MORIMOTO Battalion and the occurrence of fighting on
21 the border were much regretted by the central authori-
22 ties of Japan, but were nothing but incidental happen-
23 ings. But from the viewpoint of military discipline,
24 the commander of the battalion, MORIMOTO, and his regi-
25 mental commander were committed for military trial and

1 punished, and the two commanders, namely, ANDO and
2 KUNO, were dismissed and degraded to divisional
3 commanders. Moreover, even among the central mili-
4 tary authorities the Chief of the Strategic Section,
5 who was in charge of directing the South China Army,
6 was transferred.

7 "13. As above, the entry into the northern
8 part of French Indo-China was motivated by the necessity
9 of hastening the settlement of the China Incident and
10 that was the reason why the process of entry had been
11 all the time accompanied by peaceful intentions. That
12 is, the commission's inspection was first conducted
13 and the entry itself was put into practice as a result
14 of concessions made on the part of Japan after re-
15 iterated negotiations had been made for more than two
16 months with French Indo-China, a country not very
17 strong at that time. It was quite natural therefore
18 that there was employed only the least possible mili-
19 tary strength the agreement allowed, and this to mani-
20 fest simply our peaceful intentions. In such a manner,
21 the Japanese side tried wholeheartedly to express their
22 sincere desire for peaceful friendship.

23 "This 14th day of August, 1947.

24 "Signed: SAWADA, Shigeru."

25 Any questions?

1 THE PRESIDENT: Mr. Tavenner.

2 CROSS-EXAMINATION

3 BY MR. TAVENNER:

4 Q Mr. SAWADA, you state that Major General
5 NISHIHARA headed a special committee and went to
6 French Indo-China in June, 1940.

7 A Yes, I did.

8 Q Who was his assistant, or the second in
9 charge?

10 A Colonel KOIKE.

11 Q Will you give me that name again?

12 THE INTERPRETER: Colonel K-O-I-K-E.

13 Who else were on the committee?

14 A Besides that there were commissioners from
15 the War Ministry, the Navy Ministry, and the Foreign
16 Office.

17 Q Were there military personnel as well?

18 A Yes, there were.

19 Q Who was the leader or the senior-ranking
20 officer among the military personnel?

21 A I believe it was Colonel KOIKE.

22 Q Did not General NISHIHARA report to Tokyo
23 about July 30 to make a report there? I mean, did he
24 return to Tokyo to make a report?

25 A Yes, he did.

1 Q To whom did he make a report?

2 A To the Chief of the General Staff and the
3 Vice-Chief of the General Staff -- of the Army General
4 Staff.

5 Q In his absence who continued to conduct ne-
6 gotiations in Indo-China?

7 A I believe that Colonel KOIKE was in charge.
8 However, I do not think there were any negotiations
9 during that period.

10 Q What connection was there between this special
11 committee headed by NISHIHARA and the Canton army in
12 southern China?

13 A Other than the fact that the South China Army
14 sometimes sent liaison officers to the special committee,
15 there was no special connection between the two.

16 Q Who served as the liaison officer between the
17 Southern Army of China and this committee?

18 A I believe it was the Deputy Chief of Staff
19 SATO.

20 Q The accused SATO in this case?

21 A Yes.

22 Q Did not Col. SATO -- did you say Lieut.Col. SATO?

23 A I am sorry; I cannot now recollect what his
24 rank was at the time.

25 Q Well, did the accused SATO on the 2nd of

1 August, 1940, present a memorandum to the Governor
2 General of French Indo-China?

3 A I do not know.

4 Q Do you not know at the time I mentioned that
5 a memorandum was presented to the Governor General
6 of French Indo-China demanding the free advance of the
7 Japanese troops and the occupation of the air fields
8 at Tongking for the operation of the Japanese army?

9 A Those matters should have been dealt with
10 by Major General NISHIHARA in his conversations with
11 the Governor General.

12 Q But Major General NISHIHARA, you stated, re-
13 turned to Japan on July 30?

14 A To this day I have never heard anything to
15 the effect that any negotiations were conducted -- any
16 such negotiations were conducted during Major General
17 NISHIHARA's absence.

18 Q Now, when the decision was made to advance
19 into French Indo-China, by whom was that decision first
20 made?

21 A The decision was made towards the end of July,
22 after Major General NISHIHARA's return, and it was
23 made by the War Minister and the Chief of the Army
24 General Staff.

25 Q Was there a liaison conference held to re-

1 ceive the report from the Foreign Minister and the
2 High Command?

3 A No.

4 Q Was the matter reported to the Privy Council
5 and did the Privy Council take action?

6 A No, there was no such thing.

7 Q Who was the Chief of military operations at
8 this time?

9 A Major General TOMINAGA.

10 Q What was the official position of the accused
11 SATO during the summer of 1940 -- say from June through
12 September?

13 A Deputy Chief of Staff, South China Expedition-
14 ary Forces.

15 Q You stated at the bottom of page 3 of your
16 affidavit that in the event the French refused to
17 comply with the Japanese demands "we would have to
18 resort to the alternative of occupation by force,
19 and hereupon orders were given to the South China Army
20 to prepare, in advance, for any measures of war."

21 A Yes.

22 Q Did you consult the accused SATO at that time?

23 A No, no consultations were held.

24 THE PRESIDENT: I have a question on behalf
25 of a Member of the Court.

1 BY THE PRESIDENT:

2 Q What was the exact location of the Chungking
3 Government forces along the French Indo-Chinese border?

4 A I don't recollect.

5 Q Were they important forces?

6 A They were important forces, and the Governor
7 General of French Indo-China, General Catroux, had
8 indicated -- had pointed out their danger.

9 THE PRESIDENT: We will recess now for fif-
10 teen minutes.

11 (Whereupon, at 1445, a recess was taken
12 until 1505, after which the proceedings were
13 resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Tavenner:

4 CROSS EXAMINATION (Continued)

5 BY MR. TAVENNER:

6 Q Mr. SAWADA, was a part of the Canton Army
7 sent down to French Indo-China at this time?

8 A Yes.

9 Q How many troops of the Canton Army were
10 eventually sent into French Indo-China?

11 A One division.

12 MR. TAVENNER: If the Tribunal please, with
13 reference to the testimony of the witness regarding
14 the final demands upon France with the threat of
15 use of military force, the prosecution does not
16 desire to cross-examine, but does rely upon certain
17 exhibits introduced in behalf of the prosecution,
18 some of which I would like to refer to: Exhibit 640,
19 page 7037; exhibit 646, page 7055; exhibit 641,
20 page 7043; exhibit 644, page 7052; exhibit 647-A,
21 page 7059; exhibit 639-B, page 7033; and exhibit 642,
22 page 7046.

23 That is all, if the Tribunal please.

24 MR. BLEWETT: May the witness be excused,
25 your Honor?

1 THE PRESIDENT: He is excused on the usual
2 terms.

3 (Whereupon, the witness was excused.)

4 MR. BLEWETT: I call the witness KONDO,
5 Nobutake.

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1 N O B U T A K E K O N D O, recalled as a witness
2 on behalf of the defense, having been previously
3 sworn, testified through Japanese interpreters
4 as follows:

5 DIRECT EXAMINATION

6 MR. BLEWETT: May the witness be shown
7 document 1687?

8 BY MR. BLEWETT:

9 Q Is that your affidavit, Admiral?

10 THE PRESIDENT: We will have his name and
11 address, Mr. Blewett.

12 Q Will you give us your name and address?

13 A My name is KONDO, Nobutake. My address is
14 166 Taishido-machi, Setagaya-ku, Tokyo.

15 THE PRESIDENT: He is already sworn.

16 You are still on your former oath.

17 Q Is that your affidavit that you just
18 examined?

19 A Yes, it is.

20 Q Are the contents therein true and correct?

21 A Yes, they are.

22 MR. BLEWETT: I offer in evidence defense
23 document No. 1687.

24 THE PRESIDENT: Admitted on the usual terms.

25 CLERK OF THE COURT: Defense document 1687

1 will receive exhibit No. 3014.

2 (Whereupon, the document above
3 referred to was marked defense exhibit No.
4 3014 and received in evidence.)

5 MR. BLEWETT: I shall read exhibit 3014:

6 "1. I was formerly an admiral.

7 "I was appointed Chief of the First De-
8 partment of the Naval General Staff on December 2,
9 1935 and the Commander-in-chief of the Fifth Fleet
10 on December 15, 1938, in which position I served
11 until the following year, 1939.

12 "2. The operation of occupying Hainan
13 Island was planned while I was, as above-mentioned,
14 in the position of the Chief of the First Department
15 of the Naval General Staff (around November 1938).
16 I then, as chief of the First Department; that is,
17 the chief of the Operation Department, had charge of
18 drafting the operation plan. Besides, occupying
19 Hainan Island was carried out by the units under
20 command of myself as the Commander-in-chief of the
21 Fifth Fleet. Such being the case, I am very well
22 informed concerning the military situation of those
23 days, the subject of this operation and the state of
24 affairs of the occupation movement.
25

"3. Since the outbreak of the China Affair,

1 Japan keenly realized that, with a view to the early
2 settlement of the Affair, it was strategically
3 necessary, aside from her continuous military
4 efforts, for her to prevent arms and other muni-
5 tions which had become the source of the Chinese
6 resistant power against Japan from being imported
7 from outside.

8 "4. As a result of the Japanese occupation
9 of Kwantung which was carried out in October 1938,
10 it was possible to keep in check the transport and
11 supply of munitions inland from there. Japan, how-
12 ever, found another inland supply route in the
13 southwest of China. Thus the coastal of Kwangchow
14 Bay and Annan Bay areas increased in importance to
15 such an extent that Japan began to feel the neces-
16 sity of blockading this area in her attempt to check
17 the inland supply from the sea. For doing this
18 thoroughly, the occupation of Hainan Island which
19 it was intended to make one of our advanced bases,
20 was considered indispensable.

21 "5. Japan, with the progress of her
22 military operations against China, occupied import-
23 ant zones one by one and got into a position to
24 deliver long air attacks upon other important zones.
25 The result of our blockade operation of ingoing

1 supplies to the Chinese Army, however, turned out
2 to be far from thorough-going because the spearhead
3 of the Japanese Army did not reach the western part
4 of Kwantung Province, Kwangsi Province or the
5 Kweichow and Yunnan area and especially because it
6 could not attack the South Route at several inner
7 important points. Thus Japan, desiring to accomplish
8 the aim of blockading her enemy's supply route, found
9 it necessary to establish an air base on Hainan
10 Island and to make it an advanced base of hers.

11 "6. The Hainan Island Operation was based
12 upon an order, 'Occupy Hainan Island,' which was
13 issued by the Imperial Headquarters in January
14 1939 and was carried out in the form of a joint
15 operation by the Army and Navy. On February 10,
16 1939 an Army force (one mixed brigade) on a little
17 more than ten transports which had been escorted
18 by the Fifth Fleet under my command, landed on the
19 island at Chengmai-Wan Bay on its northern end and
20 occupied Haikow and its vicinity. This started a
21 series of occupations which was made at various
22 strategic points by our Army and Naval forces. This
23 Japanese-held Island became of not a little help in
24 our subsequent operations against the continental
25 inland regions and the coastal areas of South China.

1 Above all, the successive air attacks upon the South
2 Supply Route were delivered by the air group of this
3 Hainan Air Base.

4 "7. As I mentioned above, the occupation
5 of Hainan Island was made exclusively on the basis
6 of purely strategic requirements. With the develop-
7 ment of the conflict to the stage when Japanese
8 troops advanced into French Indo-China and when the
9 Pacific War broke out, this Island came to play a
10 strategic role from considerations of its topography.
11 In no way, however, was this planned from the outset
12 nor did we operate with the intention of occupying
13 the Island permanently."

14 Any questions?
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1 THE PRESIDENT: Mr. Tavenner.

2 MR. TAVENNER: If the Tribunal please, this
3 entire affidavit deals with the subject of the capture
4 of Hainan Island. With regard to the decision to cap-
5 ture Hainan Island the prosecution relies upon prosecu-
6 tion exhibit 612, page 6731 of the transcript, the
7 Five-Ministers Conference of November 25, 1938.

8 There will be no cross-examination.

9 THE PRESIDENT: I have a question on behalf
10 of a Member of the Tribunal:

11 How is the witness sure that Japan did not
12 want to occupy Hainan Island permanently?

13 THE WITNESS: Since the occupation of Hainan
14 Island was carried out because of purely strategic
15 requirements I understood that our occupation would
16 not be permanent.

17 MR. BLEWETT: May the witness be excused, sir?

18 THE PRESIDENT: He is excused on the usual terms.

19 (Whereupon, the witness was excused.)

20 MR. BLEWETT: I call the witness ABE, Katsuo.
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1 K A T S U O A B E, called as a witness on behalf
2 of the defense, being first duly sworn, testified
3 through Japanese interpreters as follows:

4 DIRECT EXAMINATION

5 MR. BLEWETT: May the witness be shown
6 defense document No. 1689.

7 THE PRESIDENT: We will have his name and
8 address first, Mr. Blewett.

9 BY MR. BLEWETT:

10 Q Will you please give us your name and address,
11 Admiral?

12 A My name is ABE, Katsuo; my address: 2320
13 Midorigaoka, Meguro-ku, Tokyo.

14 Q Would you examine defense document No. 1689?
15 Is that your affidavit and is it signed by you?

16 A Yes, it is.

17 Q Is it true and correct?

18 A It is correct.

19 MR. BLEWETT: I offer in evidence defense
20 document 1689.

21 THE PRESIDENT: Mr. Tavenner.

22 MR. TAVENNER: If the Tribunal please, objection
23 is made to two sentences which we view as stating opin-
24 ions or conclusions: on the last page, page 4, the
25 first sentence begins about the middle of the paragraph

1 marked "6" with the words, "Accordingly the occupa-
2 tion," and the other sentence is the last one beginning
3 with the words, "Japan never."

4 THE PRESIDENT: Mr. Blewett.

5 MR. BLEWETT: We have no objections to deleting
6 those sentences, if your Honor please.

7 THE PRESIDENT: Mr. Blewett.

8 They will be taken out then.

9 MR. BLEWETT: Pardon me, sir, is the document
10 admitted with that deletion?

11 THE PRESIDENT: Yes, the document is admitted
12 on the usual terms with those two deletions.

13 CLERK OF THE COURT: Defense document 1689
14 will receive exhibit No. 3015.

15 (Whereupon, the document above
16 referred to was marked defense exhibit
17 No. 3015 and received in evidence.)

18 MR. BLEWETT: I shall read exhibit 3015 as
19 admitted:
20

21 "1. I am a former naval Vice-Admiral. I
22 occupied the post of chief of the Naval Affairs
23 Bureau of the Naval Ministry from October, 1939 until
24 October, 1940, when I was ordered to Europe, and was
25 chiefly in charge of affairs concerning general naval
administration and armaments as well as national defense

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1 marked "6" with the words, "Accordingly the occupa-
2 tion," and the other sentence is the last one beginning
3 with the words, "Japan never."

4 THE PRESIDENT: Mr. Blewett.

5 MR. BLEWETT: We have no objections to deleting
6 those sentences, if your Honor please.

7 THE PRESIDENT: Mr. Blewett.

8 They will be taken out then.

9 MR. BLEWETT: Pardon me, sir, is the document
10 admitted with that deletion?

11 THE PRESIDENT: Yes, the document is admitted
12 on the usual terms with those two deletions.

13 CLERK OF THE COURT: Defense document 1689
14 will receive exhibit No. 3015.

15 (Whereupon, the document above
16 referred to was marked defense exhibit
17 No. 3015 and received in evidence.)

18 MR. BLEWETT: I shall read exhibit 3015 as
19 admitted:

20 "1. I am a former naval Vice-Admiral. I
21 occupied the post of chief of the Naval Affairs
22 Bureau of the Naval Ministry from October, 1939 until
23 October, 1940, when I was ordered to Europe, and was
24 chiefly in charge of affairs concerning general naval
25 administration and armaments as well as national defense

1 policy, assisting the Navy Minister and the Navy
2 Vice-Minister."

3 THE PRESIDENT: Where in Europe was he,
4 Mr. Blewett?

5 MR. BLEWETT: Will you answer the President's
6 question, please, Admiral?

7 THE WITNESS: First I was in Italy and then
8 in Germany. After Germany's defeat I was in Sweden
9 and returned to Japan last year.

10 MR. BLEWETT (Reading): "2. It was while
11 I was in the aforesaid post of chief of the Naval
12 Affairs Bureau that the Japanese Forces marched into
13 the northern part of French Indo-China. Prior to the
14 diplomatic negotiations, it was agreed by the Naval
15 General Staff that, in the capacity of Chief of the
16 Naval Affairs Bureau, I represent the Navy and together
17 with the representative of the Army hold conference
18 with the authorities of the Foreign Office (especially
19 the Chief of the Bureau of European and Asiatic
20 Affairs and the Treaty Bureau) on the basic problems
21 which might be discussed in the diplomatic negotiations.
22

23 "3. At the time Japan was taking pains in the
24 disposing of the China Incident and Imperial Headquart-
25 ers recognized that to hasten the settlement of the
China Incident it was most necessary to block off the

1 so-called French Indo-China route, the only supply
2 route for Chiang via French Indo-China, and ordered
3 the Expeditionary Forces of the Army to take Nanning
4 temporarily with an eye to bombarding from the Nanning
5 airfield the Yunnan railway, which led to French
6 Indo-China. Nanning, however, was a very small and
7 unhealthy place and, what was worse, the airfield,
8 being unusable during the rainy season, proved to be
9 of little use for blocking the supply route, and the
10 situation was that materials to aid Chiang went into
11 China as before. Thereupon, under the positive nec-
12 essity of securing the blocking of the route, the
13 Imperial Headquarters consulted the Navy and Army
14 Ministries about the plan of diplomatic negotiations
15 in which the Foreign Office and the French Government
16 were to talk with each other mutually expressing their
17 sincerest views in realizing the blocking of the
18 route practically and peacefully by the French Indo-
19 Chinese themselves.

21 "4. In compliance with the above intentions,
22 the Foreign Office after much consultation with us,
23 the authorities of the Navy and Army, determined to
24 enter into diplomatic negotiations, which were conducted
25 very prudently and patiently, and at length obtained an
understanding from the authorities of French Indo-China.

1 And it was decided that observers be posted along
2 the frontier as well as at seaports and some other
3 places so as to keep an eye on the transportation of
4 aid to Chiang supplies which were sent by way of
5 French Indo-China. And in June, 1940, an observation
6 party, which consisted of Navy and Army men together
7 with officials of the Foreign Office with Major General
8 NISHIHARA as Chief of Section, was sent to French
9 Indo-China. The aim, however, was not attained, and
10 the complete blocking off of the aid to Chiang supply
11 route not readily realized.

12 "To secure the blocking off of the route, the
13 Foreign Office had had talks with Henri, the French
14 Ambassador to Japan, at Tokyo since August 1 of the
15 same year, and on August 30 an understanding as to
16 basic problems such as occupation by Japanese forces
17 of the Tonkin area for the purpose of securing the
18 blocking off of the aid to Chiang supply route, and
19 offering of facilities for our military operations in
20 China, was reached at the talk between Foreign Minister
21 MATSUOKA and Ambassador Henri, concrete details being
22 left to be worked out by the Japanese and French mili-
23 tary authorities on the spot.

24 "5. Agreement between the authorities on
25 the spot, however, did not take shape speedily and it

1 was not until September 22, when an agreement was
2 reached at last. But it took much time to notify
3 the dispatched troops of the Japanese and French
4 armies of the said agreement, which caused some
5 clashes between the troops near the frontier through
6 misunderstandings. Except for these clashes, the
7 agreement was materialized according to peaceful and
8 reciprocal understanding and the occupation was also
9 carried out in peace, which I learned from reports
10 from the spot. (Whereupon, the witness was excused.)

11 "6. In short, the sole aim of the occupation
12 of the Japanese forces of the northern part of French
13 Indo-China, as stated above, was none other than for
14 the acquisition of facilities for military operations
15 for the purpose of blocking off the aid to Chiang
16 supply route. * * * And it was firmly promised at
17 the above stated MATSUOKA-Henri talk that the occupied
18 area provided in the agreement was limited to the
19 regions of French Indo-China adjacent to the borders
20 of China and French Indo-China, and that the Japanese
21 Government would respect the territorial integrity
22 of French Indo-China as well as French sovereignty
23 over French Indo-China. * * *"

24 THE PRESIDENT: That sentence beginning
25 "Accordingly" was deleted.

1 MR. BLEWETT: Yes, I did not read that, sir. I
2 skipped that, your Honor.

3 You may question.

4 THE PRESIDENT: Mr. Tavenner.

5 MR. TAVENNER: No cross-examination, if the
6 Tribunal please.

7 MR. BLEWETT: May the witness be dismissed?

8 THE PRESIDENT: He is excused on the usual
9 terms.

10 (Whereupon, the witness was excused.)

11 will receive exhibit No. 3016-A.

12 (Whereupon, the document above

13 referred to was marked defense exhibit

14 No. 1016 for identification; and the ex-

15 hibits therewith were marked defense exhibit

16 No. 1016-A and received in evidence.)

17 MR. BLEWETT: I shall read exhibit 3016-A.

18 "4. The Excerpt from the Arrangement.

19 Concerning the Construction and Exploitation of the
20 Yunnan Railway. (Signed at Peking, October 29, 1903).

21 "The official documents dated 19th and 20th
22 days of March of the 24th year of Kwang-Hail, cor-
23 responding to the 9th and the 10th days of April
24 1904 were exchanged between Mr. Dubail, Charge
25 d'affaires of the French Republic, at Peking, and

1 MR. BLEWETT: We offer in evidence defense
2 document 2074, an excerpt from the "Arrangement Con-
3 cerning the Construction of the Yunnan Railway," to
4 show that the railway could not observe neutrality
5 regulations.

6 THE PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: The volume entitled,
8 "Collection of Treaties of Great East Asia, 505,
9 will receive exhibit 3016 for identification only.
10 The excerpt therefrom, being defense document 2074,
11 will receive exhibit No. 3016-A.

12 (Whereupon, the document above
13 referred to was marked defense exhibit
14 No. 3016 for identification; and the ex-
15 cerpt therefrom was marked defense exhibit
16 No. 3016-A and received in evidence.)

17 MR. BLEWETT: I shall read exhibit 3016-A.

18 "4. The Excerpt from the Arrangement,
19 Concerning the Construction and Exploitation of the
20 Yunnan Railway. (Signed at Peking, October 29, 1903).

21 "The official documents dated 19th and 20th
22 days of March of the 24th year of Kwang-Hsii, cor-
23 responding to the 9th and the 10th days of April
24 1898 were exchanged between Mr. Dubail, Charge
25 d'Affaires of the French Republic, at Peking, and

1 Tson-Ci-Yamen. back to 1903. What is the purpose?

2 "Article 24. The railway having for its
3 purpose uniquely to give facilities to the commerce,
4 when the construction would be completed and the
5 circulation of the trains commenced, it would not be
6 permitted to use the railway for the purpose of trans-
7 porting the Anamese salt, and the European troops,
8 or the arms of war or munitions which may be served
9 to the aforesaid European troops. The railway cannot
10 transport the objects prohibited by Chinese laws.

11 "If China should engage in" -- I understand,
12 sir, that the Japanese "senso" is the word for "war"
13 and "kosen" is the word for "hostilities" and in this
14 Japanese it is "kosen." That word should be, instead
15 of "a war," "hostilities."

16 "If China should engage in hostilities with
17 a foreign country, this railway could not observe the
18 regulations of the neutrality. It shall be put to
19 the entire disposition of China."

20 THE PRESIDENT: There are other changes here
21 that you might well suggest, too. Isn't it so abridged
22 as to be almost meaningless?

23 MR. BLEWETT: Well, it seems very short,
24 your Honor. But this one sentence was--
25

THE PRESIDENT: Mr. Blewett, we notice this

1 document goes back to 1903. What is its purport?

2 MR. BLEWETT: That was the agreement at
3 that time, sir, which provided that the railroad should
4 not transport or could not observe the regulations
5 of neutrality.

6 THE PRESIDENT: What rights does it give
7 Japan? It is a document in which China is interested.

8 MR. BLEWETT: I take it this is an antecedent,
9 sir, prior to a document in connection with the bombing
10 of the Yunnan Railway.

11 THE PRESIDENT: It is hardly good enough.

12 No, the whole point is, this is not an agree-
13 ment affecting Japan at all. It gives Japan no rights.

14 MR. BLEWETT: I call the witness TERAU.

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1 K U N I Z O T E R A I, called as a witness on
2 behalf of the defense, being first duly sworn,
3 testified through Japanese interpreters as
4 follows:

5 DIRECT EXAMINATION

6 BY MR. BLEWETT:

7 Q What is your name and address?

8 A My name is TERA I, Kunizo. My address,
9 97 Hisagicho, Zushi, Yokosuka.

10 Q May the witness be shown document 2080.

11 Is that your affidavit, and did you sign it?

12 A I did sign it.

13 Q Are the contents true and correct?

14 A They are.

15 MR. BLEWETT: I offer in evidence defense
16 document No. 2080.

17 THE PRESIDENT: Mr. Tavenner.

18 MR. TAVENNER: If the Tribunal please, although
19 it is not important, I feel I should object to
20 Section 5 as being a mere statement of a presumption
21 by this witness and as of a doubt expressed by him.

22 THE PRESIDENT: It is too technical, I think,
23 Mr. Tavenner.

24 MR. BLEWETT: The witness, your Honor, made
25 the investigation which he refers to.

1 THE PRESIDENT: The objection is overruled,
2 and the document admitted on the usual terms.

3 CLERK OF THE COURT: Defense document 2080
4 will receive exhibit No. 3017.

5 (Whereupon, the document above
6 referred to was marked defense exhibit
7 No. 3017 and received in evidence.)

8 MR. BLEWETT: I shall read exhibit 3017.

9 "1. I was formerly a naval captain. From
10 20 November 1938 to 15 December of the same year I
11 was air group commander on board the Shinsen Maru,
12 following which, till 1 November 1939 I was commander
13 of an air unit of the 16th Air Group stationed at
14 Tongking Bay and I took part in the South China
15 operations.
16

17 "2. The bombing incident of 'Takkei' in
18 French Indo-China on 26 August 1939 was believed to
19 have been caused by an airplane under my command when
20 I was commander of the air unit of the above-mentioned
21 16th Air Group. And for that reason I know the cir-
22 cumstances in detail. However, a considerable length
23 of time has elapsed since that time and as I have no
24 records of that time in hand, I do not recall exact
25 figures.

"3. Around 28 August 1939 a telegram from

1 the Navy Ministry, Chief of Naval Affairs Bureau,
2 was sent to Headquarters, 5th Air Corps and also to
3 the 16th Air Group demanding a detailed investigation
4 and a report on existing circumstances, because there
5 was an incident of a seaplane dropping a bomb on
6 'Takkei' in French Indo-China on 26 August 1939
7 with the possibility of involving an airplane of the
8 16th Air Group. The reason for ordering an investiga-
9 tion to the 16th Air Group was because it was the
10 only seaplane unit operating in that area at that
11 time. As I was commander of the air unit of the
12 16th Air Group I took charge of the investigation.

13 "4. At the time, summing up air reconnaissance
14 reports and informations from other units it was
15 concluded that transportation of war supplies into
16 China through French Indo-China was being carried
17 out in a brisk manner. The 16th Air Group received
18 orders to check it and continued daily patrol activi-
19 ties in the French Indo-China and China border areas.

20 "On the day of the incident, 26th August,
21 three airplanes type-15 patrol seaplanes, conducted
22 a reconnaissance mission in the border area. Each
23 plane carried two bombs, 60-kilogram bombs for land
24 purposes, with instructions to attack targets effective
25 in disrupting supply communication lines and in case

1 such targets were not observed, to bomb air fields,
2 bridges or military installations in the Tungchow
3 vicinity.

4 "From the reports submitted by the air crew
5 members of the above three planes, after returning
6 from the mission, I learned that one plane got astray
7 due to poor weather conditions over the border area
8 and took the following course.

9 "The same plane continued to encounter un-
10 favorable weather and was compelled to keep flying
11 at low altitude. Finally it lost the position of
12 the plane and wasted time in attempting to confirm
13 its own position.

14 "Getting worried about returning to the base
15 and when it decided to jettison the bombs in order
16 to extend its cruising range, it spotted a town below
17 which appeared to be Fungchow, the designated target
18 area. However, due to the fact that it was not suf-
19 ficiently confident and as it was after the Panay
20 Incident, etc., was under strict orders to respect
21 foreign interests paying special attention in this
22 respect, it avoided bombing the city limits and
23 dropped its bombs in the suburbs.

24 "5. In compliance with the enquiry telegram
25 mentioned above, a detailed investigation of that

1 day's occurrence was made but as there were absolutely
2 no other plane than the one already mentioned, I presumed
3 the above-mentioned airplane had crossed the border
4 without knowing it and penetrated into French Indo-
5 China due to bad weather and the point which the air-
6 plane thought to be the Fungchow area was actually
7 the 'Takkei' vicinity and I made out a report to that
8 effect. However, compared with the bombs which were
9 carried, it was hard to understand why 'casualties
10 were extremely high' as reported by newspaper tele-
11 grams and radio broadcasts. Judging from the fact
12 that air crew members avoided bombing city limits,
13 it is still doubtful to me to this day.

14 "Furthermore, at the time of the incident
15 I did not even dream that French Indo-China territory
16 was bombed and so I did not make a confirmation of
17 the bombed locality.

18 "6. The Japanese Government, based on
19 the above-mentioned report took up the case and through
20 diplomatic channels expressed its regret to the French
21 Indo-China authorities and I learned from competent
22 sources that reparations were made."

23 You may examine.
24
25

THE PRESIDENT: Mr. Tavenner.

1 MR. TAVENNER: There will be no cross-
2 examination, if the Tribunal please.

3 THE PRESIDENT: The witness is released on
4 the usual terms.

5 (Whereupon, the witness was
6 excused.)

7 MR. BLEWETT: I am going from No. 11, 2080,
8 to No. 14, defense document 2016, and call the wit-
9 ness Chikao YAMAMOTO.

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1 C H I K A O Y A M A M O T O, called as a witness
2 on behalf of the defense, being first duly
3 sworn, testified through Japanese interpreters
4 as follows: tion until November 15, 1940.

DIRECT EXAMINATION

5
6 BY MR. BLEWETT:

7 A Please give us your name and address.

8 A My name is YAMAMOTO, Chikao; my address,
9 86 Ko, Niiyamachi, Niiyamura, Kitagun, Ehime-ken.

10 Q May the witness be shown defense document
11 2016, please. The mistaken bombing of train on the

12 Will you tell us whether this is your
13 affidavit, and did you sign it? circumstances of

14 A It is mine. (Incidentally, the 15th Air

15 Q Are the contents true and correct? in the

16 A Yes, they are. as involved.)

17 MR. BLEWETT: I offer in evidence defense
18 document 2016. and railways, and the bombing of

19 THE PRESIDENT: Admitted on the usual terms.

20 CLERK OF THE COURT: Defense document 2016
21 will receive exhibit No. 3018.

22 (Whereupon, the document above rows on
23 referred to was marked defense exhibit time of
24 No. 3018 and received in evidence.)

25 MR. BLEWETT: I shall read exhibit 3018.

1 "1. I was formerly a rear admiral. On
2 November 15, 1939 I was made a Captain and on the
3 same day was assigned to the 15th Air Unit Command.
4 I was in this position until November 15, 1940.

5 "2. This 15th Air Unit was organized at
6 Hainan in November, 1939. The Air Unit participated
7 primarily in the operations in the South China
8 sector and it engaged in the bombing of the Tien-
9 Yueh Railway which was at that time an important
10 supply route of war needs for the enemy.

11 "3. The mistaken bombing of train on the
12 Tien-Yueh Railway on February 2, 1940 was done by
13 planes of the 15th Air Unit, the circumstances of
14 which are as follows: (Incidentally, the 15th Air
15 Unit was the sole unit that had participated in the
16 raid and no other unit was involved.)

17 "a) The bombing target had been confined to
18 railway bridges and railways, and the bombing of
19 trains had strictly been prohibited. On that day the
20 bombing was carried out with the 7th bridge as main
21 target.
22

23 "b) According to the report of the crews on
24 the planes, the air currents were bad at the time of
25 bombing, the enemy fighters were intercepting, and
the fire from the enemy anti-aircraft guns was heavy.

1 The bombing was carried out under these adverse
2 circumstances and the bombing altitude was 3,800
3 meters. Consequently, no one had realized the fact
4 that there was a train on the 7th bridge at the time
5 of bombing.

6 "c) Later, as a result of my close examina-
7 tion of the aerial photographs taken at the time of
8 bombing I discovered what seemed like a train on the
9 bridge, entering half-way into the tunnel just north
10 of the bridge. Therefore, I asked the bombing crews
11 whether or not they had seen a train there at that
12 time, or whether or not they had noticed any damage
13 done to the train. But no one had noticed the
14 existence of the train.

15 "4. Such being the case, the mistake
16 bombing of the train was an accidental incident
17 occurred while the bridge was being bombed to cut
18 off the enemy supply route."
19

20 You may examine the witness.

21 THE PRESIDENT: Mr. Tavenner.

22 MR. TAVENNER: If the Tribunal please, the
23 prosecution does not desire to cross-examine.

24 MR. BLEWETT: May the witness be excused,
25 if your Honor please?

THE PRESIDENT: He is released accordingly.

(Whereupon, the witness was
excused.)

MR. BLEWETT: I call the witness SATO.

MR. TAVENNER: If the Tribunal please, I think I can make an explanation at this time which would obviate the necessity for the use of this witness. It is an explanation, in any event, which the prosecution should make.

During the prosecution's case exhibit 628 was admitted conditionally. On November 25th or 27th -- the 27th I am advised -- a proper certificate was presented except that it covered only a part of that exhibit in the way that it was worded instead of the entire exhibit. The certificate we presented covered only seven pages, which constituted the first section of a document containing four sections. When the certificate was presented on November 27 the condition attached to the introduction of the exhibit was removed by order of the Tribunal and the document admitted. This appears at page 11,396 of the transcript. When we saw this affidavit on the order list we made further investigation and found that this certificate, as stated, did not cover the entire document. So we have now obtained a new certificate which covers the remaining three sections of the

1 original exhibit, and we desire to tender them in
2 evidence; in fact, it consists of three separate
3 certificates, one for each section not covered by the
4 previous certificate. The original exhibit, 628, was
5 offered at page 6975 of the transcript.

6 LIA. BLEWETT: Now that we have the witness
7 present we feel that we would like to call him and
8 have him explain this whole situation.

9 THE PRESIDENT: We will hear him in the
10 morning, if necessary.

11 We will adjourn until half-past nine
12 tomorrow morning.

13 (Whereupon, at 1600, an adjourn-
14 ment was taken until Wednesday, 27 August
15 1947, at 0930.)

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